

Senator SNOWE, Senator BOND, and Senator PRYOR have all either been sponsors or cosponsors of major amendments on this bill, and I express my gratitude to all of them.

#### CONCLUSION OF MORNING BUSINESS

Mr. DODD. Madam President, I ask that morning business be closed.

The PRESIDING OFFICER. Morning business is closed.

#### HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009—Continued

Mr. DODD. Madam President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending bill is S. 896.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1031, as modified, offered by the Senator from New York, Mr. SCHUMER.

Mr. DODD. Madam President, before we get to that, I would like to report to Members that we are inching closer to completing action on this legislation. Four amendments remain in order, and votes with respect to these amendments will occur shortly. Those that remain are Schumer amendment No. 1031, as modified; Coburn second-degree amendment No. 1042; Reed of Rhode Island amendment No. 1040, as amended, if amended; and Grassley amendment No. 1021, as modified. Once we have disposed of these four amendments, then the only matter remaining is adoption of the substitute, as amended, and, finally, passage of S. 896. Since there is no time in between, I have given my closing remarks on the value of the legislation.

With that, I guess we turn to Senator SCHUMER.

The ACTING PRESIDENT pro tempore. The Senator from New York.

#### AMENDMENT NO. 1031, AS MODIFIED

Mr. SCHUMER. Mr. President, first, I wish to salute, praise the chairman of our Banking Committee, Chairman DODD, for doing a great job on this bill. I thank him for the good work he has done, and so many others who have worked long and hard on this legislation; Senator SHELBY as well.

Mr. President, I ask unanimous consent that my amendment be modified with the changes at the desk.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CHAMBLISS. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. SCHUMER. Mr. President, we are asking for a simple change that in no way affects the amendment, in no way affects whether it is going to cost anything. The purpose of the underlying amendment is to ensure that tenants of multifamily housing across the coun-

try benefit from the same attention and support of this Government as single-family homeowners will.

We have literally millions of tenants—millions—who, because the homes which they rent are foreclosed, are in very bad shape. They can be removed from their homes. Their homes can deteriorate. Once a home is in foreclosure, often it is not kept up. This is not just in big cities such as New York but around the country. In fact, States such as Tennessee and so many others are on the list which I listed of 15 States that are most affected because it affects not only big multiple dwellings but garden apartments and other residential units. It is unfortunate that the objection is going to stand in the way of helping these tenants.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

#### AMENDMENT NO. 1031, AS MODIFIED, WITHDRAWN

Mr. SCHUMER. Mr. President, I ask unanimous consent to withdraw the amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, and I will not object, I wish to commend my colleague from New York. I say this through the Chair. We will come back to this issue. I understand an objection has been voiced, but I want to thank our colleague from New York. He raises a very important issue and one that needs to be addressed. I commend him for it. There will be other opportunities, I hope, shortly to come back to this issue.

Mr. SCHUMER. Mr. President, I appreciate that.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, the amendment is withdrawn.

#### AMENDMENT NO. 1042

Mr. DODD. Mr. President, I believe the next item is the amendment offered by our colleague, Senator COBURN, from Oklahoma.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I have a second-degree amendment to the Reed amendment. What it says is we create a pilot study. We have 69,000 pieces of property we cannot get rid of. It represents \$83 billion in assets to us as a government and to the American people. It is \$83 billion we would not have. What we set up is a pilot program that manages 150 pieces of property a year to dispose of them. It gives 20 percent to the agency, 80 percent back to the Government. It creates a way, in a pilot project, for us to do real property reform.

We have gone through and we have created 250 homeless shelters out of 30,000 properties at a cost of \$300 million. We are spending over \$8 billion a year just maintaining properties we do not want, do not need, yet we cannot get rid of.

This is a simple, straightforward amendment that is common sense.

There is no reason why we should not accept this amendment.

With that, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, on behalf of Senator JACK REED of Rhode Island, in a moment I will make a point of order. But Senator COBURN and I, last night, had a short colloquy. He raises a very legitimate point on a larger issue, and he talked about it last evening at some length. I expressed to him then—and I am very sincere about it—that I would like to work with him. We have a lot of properties out there for which it takes too much money to care for them each year. A lot of them probably ought to be destroyed, as the Senator has pointed out. So I want him to know that the point of order being raised here should not reflect the underlying issue he has raised, and I am committed to work with him on that. I think it is a very good idea and one we ought to be aggressive about.

But having said that, Mr. President, on behalf of Senator JACK REED, I raise a point of order that the pending amendment violates section 201 of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

Mr. COBURN. Mr. President, I move to waive the budget point of order, and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota, (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 46, as follows:

[Rollcall Vote No. 183 Leg.]

#### YEAS—50

Alexander	Dorgan	McCaskill
Barrasso	Ensign	McConnell
Bayh	Enzi	Murkowski
Bennett	Graham	Nelson (NE)
Brownback	Grassley	Pryor
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Carper	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Klobuchar	Vitter
Conrad	Kyl	Voinovich
Corker	Lincoln	Warner
Cornyn	Lugar	Webb
Crapo	Martinez	Wicker
DeMint	McCain	

#### NAYS—46

Akaka	Bond	Cantwell
Baucus	Boxer	Cardin
Begich	Brown	Casey
Bennet	Burr	Dodd
Bingaman	Byrd	Durbin

Feingold  
Feinstein  
Gillibrand  
Hagan  
Harkin  
Inouye  
Kaufman  
Kerry  
Kohl  
Landrieu  
Lautenberg

Leahy  
Levin  
Lieberman  
Menendez  
Merkley  
Mikulski  
Murray  
Nelson (FL)  
Reed  
Reid  
Sanders

Schumer  
Shaheen  
Specter  
Stabenow  
Tester  
Udall (CO)  
Udall (NM)  
Whitehouse  
Wyden

## NOT VOTING—3

Johnson Kennedy Rockefeller

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 50, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Connecticut is recognized.

## AMENDMENT NO. 1040

Mr. DODD. Mr. President, what is the pending business before the Senate?

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Rhode Island.

Mr. DODD. Have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. No.

The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, this is a bipartisan effort to reform our homeless programs. This amendment would simplify the application process, give greater flexibility and accountability at the local level. It would also provide additional resources to prevent homelessness. We are in the midst of a huge crisis in terms of people who literally cannot find housing. We have pictures in newspapers of tent cities sprouting up all across the country. We need to act.

This amendment is bipartisan and is supported by Senator BOND and, before him, Senator ALLARD, and Senators BOXER, COLLINS, DURBIN, KERRY, LAUTENBERG, LIEBERMAN, SCHUMER, and WHITEHOUSE. It is good, sensible reform legislation that will make our programs more effective and, hopefully, prevent people from losing their homes and keep them away from these tent cities that are sprouting up. I urge its passage.

Mr. DODD. Mr. President, I strongly endorse this amendment. The Senator deserves a lot of credit, along with Senator BOND.

## AMENDMENT NO. 1040

Mr. BOND. Mr. President, I rise to speak in strong support of the Reed-Bond amendment No. 1040. This amendment provides critical and cost-effective tools to reform federal programs that address homelessness. It is identical to S. 808, the Homeless Emergency Assistance and Rapid Transition to Housing Act or HEARTH Act, which I was very proud to cosponsor. The HEARTH Act is a bipartisan bill that builds on and expands programs that have been demonstrated to end and prevent the tragedy of homelessness that afflicts many American individuals and families.

Before I offer some comments on the amendment, I praise Senator JACK REED for his long-term commitment and hard work on addressing homelessness. Senator REED has been a long-time leader in housing issues and I value the strong partnership we have had over the past several years. I also recognize the work of our former colleague, Senator Wayne Allard, who also was heavily involved in this legislation before he retired from this Chamber.

Over 20 years ago, the Federal Government took its first major step in addressing the plight of homelessness through the enactment of the Stewart B. McKinney Homeless Assistance Act. But despite billions of private and public dollars spent on the homeless, millions of veterans, families, disabled, and children have and continue to experience the sad tragedy of homelessness.

Fortunately, through innovative efforts that focused on permanent supportive housing, we have learned that being homeless is no longer a hopeless situation. As the former chair and current ranking member of the Senate Appropriations subcommittee that funds most of the Federal homeless programs through the Department of Housing and Urban Development, I have worked with my colleagues on both sides of the aisle—especially Senators BARBARA MIKULSKI and PATTY MURRAY—to ensure resources were being provided to the appropriate programs. Through this bipartisan partnership, we have protected affordable housing units, boosted resources to help homeless veterans through the HUD-VASH program, and revitalized distressed public housing through the HOPE VI program.

In terms of HUD's homeless assistance grant programs, I can confidently say that these funds have been well-spent as demonstrated by the dramatic drop in homelessness. HUD's national data found that between 2005 and 2007 the number of homeless people experiencing chronic homelessness—our most vulnerable and disabled neighbors—dropped from nearly 176,000 to fewer than 124,000, a decrease of 52,000 or 30 percent. This is clear evidence that through this tried-and-true approach of permanent supportive housing, we can stop the cycle of homelessness.

Under the “housing first” approach, we learned that providing permanent supportive housing was the key component in solving homelessness, especially those considered to be chronically homeless. Before we implemented the housing first approach, many homeless people were served through the revolving door of local emergency systems, which interfered with their treatment regimen and resulted in costly hospital and jail stays.

Local emergency systems became clogged with permanent users, reducing their ability to address the more temporary problems of families and individuals. Putting a greater emphasis and resources on permanent supportive

housing has become the most critical change over the past several years. Based on recent studies and results I have seen in my home State of Missouri, it has worked.

To implement this approach, I worked with Senator MIKULSKI to include a provision, beginning in the fiscal year 1999 VA-HUD Appropriations Act and carried every year thereafter, to require that at least 30 percent of the Department of Housing and Urban Development's—HUD—homeless assistance grants be used for permanent housing. Focusing a significant amount of funds towards permanent housing helped reverse the revolving door for the homeless using local emergency systems.

We also learned the importance of gathering data and analyzing the characteristics of our homeless population to design and target funds to programs needed to serve the homeless. That is why we established the homeless management information systems or HMIS through appropriations. This not only ensures that local providers have the information to address their particular homeless populations; it ensures that taxpayer funds are being spent effectively and efficiently.

Finally, we learned that despite the involvement of several Federal agencies in serving the homeless, there were gaps in services and coordination was lacking. To address this issue, the U.S. Interagency Council on Homelessness was reactivated to improve Federal, State, and local coordination of homeless programs.

The HEARTH Act codifies these important provisions that have been carried in appropriations and builds on our work over the past several years. It also includes a number of other important provisions that assist rural communities help the homeless, increase local flexibility by combining HUD's competitive grant programs, and provide incentives to house rapidly homeless families.

Homelessness is a national walking around Washington, DC, St. Louis, and other towns and cities across the Nation. But by working together with advocates, the private sector, and government, we can solve homelessness. The HEARTH Act is a prime example of that partnership and greatly advances our ability to end homelessness.

Updating and improving our homeless programs is even more critical as more Americans face the prospects of homelessness due to the economic downturn. The housing crisis has already displaced many families and individuals creating more strain on our social safety net and homeless programs.

Before closing, I offer some concerns about the Federal Housing Administration, FHA. As I have repeatedly stated, the FHA is a powder keg that may explode, leaving taxpayers on the hook if Congress and the administration continue to overburden the government agency.

That is why I have strong reservations about provisions in the Helping Families Save Their Homes Act that loosen the eligibility requirements for the FHA Hope for Homeowners program.

FHA is already showing signs of stress as defaults and foreclosures have been increasing endangering homeowners and communities across the Nation. I also am alarmed by the increasing signs of fraud, which is reportedly rising and at levels comparable or higher than during the subprime boom.

With an agency that is understaffed and challenged by long-standing management and oversight problems, the combination of these factors along with a struggling housing market and economy is a recipe for disaster.

It is critical that the Congress and the administration recognize these problems and not make HUD Secretary Donovan's job harder by placing more risk on FHA until the problems are fixed or the agency will crash and taxpayers will be footing another multi-billion-dollar bailout. While I understand the importance of FHA in many markets where lending is tight, an overburdened FHA does not benefit borrowers, neighbors, and communities if FHA continues to be provide poorly underwritten loans or loans serviced by bad actors.

I urge my colleagues, especially Banking Committee Chairman DODD and Ranking Member SHELBY, to conduct vigorous oversight of FHA and take additional legislative actions to address the agency's weaknesses.

Let me say that again—because this is important—if we continue to overburden FHA this powder keg will explode!

The ACTING PRESIDENT pro tempore. Who yields time in opposition?

Mr. DODD. Mr. President, I urge that we move to the vote and yield back the time.

The ACTING PRESIDENT pro tempore. Is there objection?

All time is yielded back.

Mr. DODD. Mr. President, I ask for a voice vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 1040) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 1021, AS MODIFIED

Mr. DODD. Mr. President, the pending matter is the Grassley amendment, is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Who yields time on the Grassley amendment?

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, my colleague, Senator GRASSLEY, the Senator from Iowa, has offered a very good amendment. I strongly support the Grassley amendment. It increases accountability of transparency at the Federal Reserve. Let me defer to my colleague to explain the amendment.

Mr. GRASSLEY. Before we do that, if the Senator is for it, can we adopt it on a voice vote?

Mr. DODD. I am happy to.

Mr. GRASSLEY. I will use my time.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. GRASSLEY. Mr. President, then let me speak off the cuff. What we have here is following on the President's promise for more transparency in Government—a promise to put everything dealing with bailouts on the Internet. There is more money involved with Federal Reserve and bailouts and stabilizing the economy than even in what we appropriate. So this is to bring transparency to what the Federal Reserve is doing, without affecting monetary policy whatsoever.

I ask us to agree to this amendment to bring transparency because the public's business ought to be public, including taxpayers' money spent by the Federal Reserve.

In March, the Finance Committee held a hearing on the progress and oversight of the Troubled Assets Relief Program, TARP. At that hearing the Government Accountability Office—GAO—testified that it is not just firms that take taxpayer money under TARP who can say “no” to GAO's requests for information, prior to my other amendment on this bill. The Federal Reserve can also refuse to cooperate.

The GAO's ability to audit the Federal Reserve is restricted by law. Perhaps those restrictions could be defunded back when the Federal Reserve focused only on monetary policy. However, today it is routinely exercising extraordinary emergency powers to subsidize financial firms far above the levels Congress is willing to authorize through legislation. The Federal Reserve is taking on more and more risk in complicated and unprecedented ways. That risk is ultimately borne by the American taxpayer.

Congress authorized \$700 billion in funds under TARP. However, the total projected assistance in various initiatives by the Federal Reserve could be up to \$3.4 trillion by GAO estimates.

This modified version of the amendment does not give GAO authority to look at all of that additional taxpayer risk. It is much narrower than the one I originally filed, but it is a reasonable step in the right direction, and it does not threaten monetary policy independence.

Although I would have preferred to include all of the Fed's emergency actions under 13(3), in consultation with Senator SHELBY I agreed to limit my amendment to actions aimed at specific companies. I will ask to submit for the RECORD a list of those actions currently covered by the new language, according to Federal Reserve staff. Future actions of the same sort would also be subject to GAO audit.

The goal of this amendment is extend GAO authority to cover the Federal Reserve's emergency actions that are most similar to the TARP—in other words actions aimed at specific companies like Bear Stearns and AIG.

I appreciate the support of Senators SHELBY and DORGAN who are cosponsoring this amendment. I urge my colleagues to support amendment No. 1021. Let's not give GAO an important mission to do with a blindfold on. Let's take off the blindfold get a good hard look at what the Federal Reserve is doing.

I ask unanimous consent that the actions currently covered by the new language to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

According to Federal Reserve staff, the following is a list of 13(3) emergency actions covered by the “single and specific” language of amendment No. 1021 to S. 896:

Actions related to Bear Stearns and its acquisition by JP Morgan Chase, including:

a. Loan To Facilitate the Acquisition of The Bear Stearns Companies, Inc. by JPMorgan Chase & Co. (Maiden Lane I)

b. Bridge Loan to The Bear Stearns Companies Inc. Through JPMorgan Chase Bank, N.A.

2. Bank of America—Authorization to Provide Residual Financing to Bank of America Corporation Relating to a Designated Asset Pool (taken in conjunction with FDIC and Treasury)

3. Citigroup—Authorization to Provide Residual Financing to Citigroup, Inc., for a Designated Asset Pool (taken in conjunction with FDIC and Treasury)

4. Various actions to stabilize American International Group (AIG), including a revolving line of credit provided by the Federal Reserve as well as several credit facilities (listed below). AIG has also received equity from Treasury, through the TARP, which would also be captured in amendment #1020.

a. Secured Credit Facility Authorized for American International Group, Inc., on September 16, 2008

b. Restructuring of the Government's Financial Support to American International Group, Inc., on November 10, 2008 (Maiden Lane II and Maiden Lane III)

c. Restructuring of the Government's Financial Support to American International Group, Inc., on March 2, 2009

5. TALF—finally, amendment No. 1020 would expand GAO's authority to oversee the TARP, including the joint Federal Reserve-Treasury Term Asset-Backed Securities Loan Facility (TALF)

\*Neither\* amendment No. 1021 nor No. 1020 would include short-term liquidity facilities:

1. Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility

2. (AMLF)

3. Commercial Paper Funding Facility (CPFF)

4. Money Market Investor Funding Facility (MMIFF)

5. Primary Dealer Credit Facility and Other Credit for Broker-Dealers (PDCF)

6. Term Securities Lending Facility (TSLF)

Mr. DODD. Mr. President, I strongly support the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. GRASSLEY. Mr. President, I ask for the yeas—

Mrs. HUTCHISON. Mr. President, I move that we vitiate a rollcall vote on this amendment.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—95

Akaka	Ensign	Menendez
Barrasso	Enzi	Merkley
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murkowski
Begich	Gillibrand	Murray
Bennet	Graham	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reed
Boxer	Harkin	Reid
Brown	Hatch	Risch
Brownback	Hutchison	Roberts
Bunning	Inhofe	Sanders
Burr	Inouye	Schumer
Burris	Isakson	Sessions
Byrd	Johanns	Shaheen
Cantwell	Kaufman	Shelby
Cardin	Kerry	Snowe
Carper	Klobuchar	Specter
Casey	Kohl	Stabenow
Chambliss	Kyl	Tester
Coburn	Landrieu	Thune
Cochran	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Levin	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Whitehouse
Dodd	McCain	Wicker
Dorgan	McCaskey	Wyden
Durbin	McConnell	

NAYS—1

Alexander

NOT VOTING—3

Johnson Kennedy Rockefeller

The amendment (No. 1021), as modified, was agreed to.

Mr. DODD. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Under the previous order, the substitute amendment is agreed to and

the motion to reconsider is considered made and laid upon the table.

The amendment (No. 1018), as amended, was agreed to.

#### PREDATORY LENDING

Ms. KLOBUCHAR. Mr. President, I would like to thank Senator DODD for his efforts to provide solutions to our neighborhoods and middle-class families to address the subprime and foreclosure crisis.

As the Nation struggles to deal with the fallout from subprime lending and the credit crunch, it is critical that families have access to safe, fair and affordable mortgages. Borrower protections, like those we have in Minnesota, should be national policy to help safeguard families across the country.

A decade ago, just 5 percent of mortgage loan originations were subprime—meaning that they were made to borrowers who would not qualify for regular mortgages. By 2005, 20 percent of new mortgages were subprime. This may have expanded access to home ownership, at least temporarily, for some people; but it also greatly increased the risk our system. In Minnesota, in 2000, there were 8,347 subprime mortgages issued. By 2005, it had increased more than fivefold to more than 47,000 subprime mortgages.

However, we now know that between 60 percent-65 percent of people who ended up with subprime mortgages actually qualified for traditional mortgages. We need to make sure this doesn't happen again.

That is why I have introduced the Homeowner Fairness Act, which is comprehensive housing reform legislation that proposes tough new national standards based on the successes of the Minnesota mortgage lending law passed in 2007.

The bill would put in place a number of key reforms. It would require all mortgage originators to verify a borrower's ability to repay a mortgage before giving loan approval. In addition, the bill would require mortgage brokers to have a minimum net worth of \$500,000 while also subjecting them to fiduciary duties obligating them to act in the best interest of their clients. It further bans prepayment penalties and limits up-front fees to no more than 5 percent of the initial principal of the loan. Importantly, the bill prohibits "steering," which is the act of approving a loan at a higher rate than that for which a borrower qualifies.

We need to make sure that abusive and exploitative mortgage practices come to an end. For far too long, subprime lenders have put the homes and home equity of Americans at unnecessary risk. These commonsense protections, modeled after Minnesota law, are essential to restoring our economy and preventing a future crisis in the housing market.

Mr. DODD. I thank my colleague from Minnesota for raising this very important issue. I point out that home ownership rates for African Americans, who were disproportionately steered

into subprime loans, have actually dropped to levels below where they were prior to the explosion of subprime lending. While I agree that subprime lending can be helpful to borrowers with some credit problems, this lending must be properly regulated, as it so clearly has not been over the past decade.

I appreciate the work Senator KLOBUCHAR has done on this issue. Her bill is based on the Minnesota law, which I understand is one of the more progressive laws in the Nation. I look forward to working with her on this issue as we move forward.

#### FORECLOSURE SCAM NOTIFICATION

Mr. KOHL. Mr. President, I rise to engage in a colloquy with my colleague from Connecticut and the chairman of the Banking Committee, Senator DODD. As the chairman is aware, I have offered an amendment to S. 896, the helping families save their homes, which would require mortgage servicing companies to issue warnings to homeowners about foreclosure rescue scams. Foreclosure rescue scams have become more prevalent as more and more homeowners lose their homes. These financial predators claim to help desperate homeowners and often, walk away with their home and money.

The issuing of a simple disclosure from a mortgage servicing company would make it easier for people to identify the difference between scam artists and legitimate help. The disclosure requirement would provide the homeowner with a HUD hotline identifying the counseling agencies in their area and would give them a phone number in order to contact their lender. A simple disclosure will provide homeowners with relevant contact information so they can better understand their options and avoid scam artists. I hope that I can work with the chairman on this important issue as the Banking Committee moves forward with future legislation on financial reform.

Mr. DODD. I thank the Senator for raising this important issue. I will work with him to address this issue in future legislation so we can help homeowners avoid foreclosure rescue scams and make sure they get the necessary information to find real help.

Mr. KOHL. I thank the chairman of the Banking Committee for all his help and engaging in this colloquy.

#### DEFINITION OF HOMELESSNESS

Mrs. MURRAY. Mr. President, I thank my colleague Senator REED for his hard work on this bill. Unfortunately, our homeless shelters and our schools are seeing an increasing number of families and children experiencing homelessness and seeking services. This bill comes at an important time. And I am particularly pleased with the emphasis placed on prevention and rapid rehousing, and efforts to better serve homeless individuals, such as victims of domestic violence.

Mr. President, I would like to inquire of my colleagues Senator REED and

Chairman DODD regarding the definition of homelessness in HEARTH Act and amendment No. 1040.

Mr. REED. Certainly, Mr. President.

Mrs. MURRAY. I thank the Senator. As you know, this amendment contains a new definition of homelessness. Homelessness is an issue I have long been concerned about both the immediate consequences of not having housing, as well as the adverse effects it can have on the broader success of children and families. For example, children that experience homelessness are more likely to fall behind in school and to experience social and emotional difficulties that hinder their academic and workplace success. Therefore, the Federal Government not only helps provide housing services for youth and families, but also education services through the McKinney-Vento Education for Homeless Children and Youths program at the Department of Education.

I appreciate the efforts to broaden the definition of homelessness in the HEARTH Act. It is an important step forward. However, I want to ensure that this new definition of homelessness does not inadvertently cause a lapse in services or cause confusion with the definition of homelessness included in the McKinney Vento Education of Homeless Children and Youth program.

Is it the Senators' intent that the definition of homelessness in the HEARTH Act, which covers homeless youth as well as families, should ever replace or change the definition of homelessness under the McKinney-Vento Education for Homeless Children and Youths program at the U.S. Department of Education?

Mr. REED. I thank the Senator for her important question. The definition of homelessness in the HEARTH Act in no way seeks to replace or change the definition of homelessness in any other statute. The definition of homelessness in the Education for Homeless Children and Youths program is critical to ensuring that homeless students have access to supports and services for their success in school. The definition of homelessness in the HEARTH Act does not and should not change or replace that education definition.

Mr. DODD. I would concur with my colleague, Mr. REED. The definition of homelessness in the HEARTH Act is to apply to matters of housing under the Department of Housing and Urban Development. In fact, the amendment expressly states that the HUD homelessness definition is in no way meant to replace or change the definition of homelessness under the McKinney-Vento Education for Homeless Children and Youths program.

Mrs. MURRAY. I thank the Senators. I have also worked hard on helping to encourage collaboration between the Department of Housing and Urban Development and the Department of Education to ensure the best services possible for homeless youth. Is it the Sen-

ators' intent that the Department of Housing and Urban Development should do everything in its power to coordinate with the Department of Education on serving homeless youth, and to ensure that no lapse in services under the Education of Homeless Children and Youths program occurs for students as any new HEARTH Act definition of homelessness is implemented?

Mr. REED. Yes, that is my intent, and it is the intent of the amendment. We continue to work on, particularly with your leadership, encouraging strong communication and coordination between the Department of Housing and Urban Development and the Department of Education on the issue of serving homeless youth. It is my intent to continue to encourage that collaboration and to work to the utmost degree, not just to prevent lapses, but to strengthen education services for homeless students while implementing the HEARTH Act.

Mr. DODD. It is also our intent that the Interagency Council on Homelessness provide increased leadership, coordination, and information on this growing issue of children, youth, and families threatened with homelessness. The amendment requires the Interagency Council to develop a government-wide plan to end homelessness, promote State planning efforts, and of course promote interagency cooperation. We will continue to work with the Council to ensure that the needs of families, children, and youth figure prominently in their efforts.

Mrs. MURRAY. This amendment will broaden HUD's definition of homelessness to include a subset of children and youth who meet the definition of homelessness used by other federal statutes. I appreciate the inclusion of these children and believe it is a step in the right direction. In particular, it covers those children and youth who: (1) have experienced a long-term period without living stably or independently in permanent housing; (2) have experienced persistent instability; and (3) who are likely to continue to do so because of disability or other barriers.

Since these concepts, such as the term "long term period," are open to interpretation, is it the Senators' intent that HUD should consider the needs of children and the effects of instability on their developmental and academic progress when developing the regulations for this provision?

Mr. DODD. Yes, the committee recognizes that the expansion of the definition of homelessness to include these children and families was carried out with the intent of addressing the housing needs and challenges of children and youth who are homeless.

Mrs. MURRAY. Mr. President, by including language that acknowledges the various definitions of homeless in other Federal statutes, is it the Senators' intention that HUD funded homeless providers should be encouraged to engage with homeless providers receiving funds from other Federal

agencies to utilize their assessments and counsel in making eligibility determinations.

Mr. DODD. Yes. Federal programs must work together to meet the needs of families and unaccompanied youth, and that collaboration should include information needed for eligibility decisions.

Mrs. MURRAY. I look forward to working with my colleagues and the committee on improving services for students. Lastly, I understand that this amendment prohibits the Secretary from requiring that communities conduct actual counts of families and youth who are newly added to the HUD definition in HUD-mandated homelessness counts. Am I correct that this provision does not prohibit the Secretary from requiring communities to provide estimates of those who are newly added to the definition, so that communities may have a better sense of the shelter and housing needs of all families, children, and youth who will be considered homeless by HUD under this legislation?

Mr. REED. Yes, that is the case. We are open to finding ways to quantify the number of individuals and families experiencing housing instability and look forward to working with the Senator and the administration to do so.

I thank the Senator for her questions, and I look forward to working together on improving the prevention of homelessness and the provision of services to homeless individuals and families in order to break the cycle of homelessness.

Mr. DODD. I also thank the Senator for her questions, and I would be happy to continue working on to address the issue of homelessness with her.

Mrs. MURRAY. I thank the Senators, and I look forward to continuing to work on these issues.

Mr. REID. Mr. President, I received recently a letter from Linda Frazier, a single mom who lives in Las Vegas with her three teen-aged children and at times has had to work two jobs that paid hourly wages.

Linda told me how in recent years, both her income and the value of her house have plummeted. She now fears hers will become the latest Nevada family swallowed up by this devastating housing crisis.

Her story is distressing. It is unacceptable that a hardworking American like Linda wakes up worried every morning about whether she can put a roof over her children's heads. But what struck me most is that she wrote to me: "I'm about to lose my house, which is the way it is."

It doesn't have to be the way it is. In a Nation this great and this strong, a family shouldn't have to lose its home when it plays by the rules. And that family certainly shouldn't surrender to thinking that having the American dream vanish is simply "the way it is."

But stories like hers happen every day, in every State. The victims of foreclosure include families who did everything right—they put money down

on their new home and took out a responsible mortgage, not one of those interest-only gimmicks.

Nevadans like Linda Frazier have endured an appalling number of foreclosures over the past few years. Just last month, about 20,000 Nevada families received a foreclosure notice. Last year, not a single state had a worse foreclosure rate than Nevada's—this crisis hit one in 14 households.

One of the most underappreciated side effects of this crisis is that the victims of foreclosure aren't just those who live in the foreclosed-upon house.

Vacant homes drive crime up and property values down. Just try putting up a sign that says "for sale" next to one that says "foreclosed." The average price of a home in Las Vegas went down more than 31 percent between last February and this February, and more than 40 percent since prices peaked in 2006.

Last fall I walked with Mayor Oscar Goodman of Las Vegas through the hardest-hit neighborhood in the hardest-hit city in the hardest-hit state in the country. A resident there came up to us and told us that the value of her home dropped more than \$100,000. She will never get back what she paid for it.

Unfortunately, her situation is now the rule, not the exception. The numbers are shocking: Two out of every three homeowners in Las Vegas owe more on their home than it's worth. The same is true for more than half of homeowners in Nevada, and for one in five across the country.

American homeowners are underwater, and it is our job to help them to dry land.

Last year, after a long struggle, we passed legislation that will help those at risk of losing their homes and prevent foreclosures from happening. We reformed the mortgage-finance industry and helped homeowners get mortgage counseling. We had to file cloture on 7 filibusters. I wish we could have done more.

Democrats insisted that last fall's rescue legislation gave the administration the authority to design other ways to help families, which led to the Obama Administration's Making Home Affordable program. That program continues to be improved, and I am hopeful that many Nevadans will take advantage of it.

Last week, we passed a bill to prevent and prosecute scam artists from preying on homeowners desperate for help. The Nevada Bureau of Consumer Protection receives nearly 100 complaints each month from consumers complaining of possible mortgage scams. The number of fraud cases reported nationwide has almost quadrupled in the past seven years: in 2001 there were 18,000; last year there were 65,000. In the Hispanic community, the number of fraud victims has been disproportionately high.

We will continue to do more to protect the victims of these scams and all struggling homeowners.

I want to thank Chairman DODD for his tireless work in leading the Senate's response to the housing crisis. He shepherded major legislation through the Congress last year, and has done so again with the important bill we are about to pass.

So far, very few have participated in the Hope for Homeowners program, but thanks to Chairman DODD's leadership, this bill improves it by lowering fees for home owners and lenders alike. It also gives lenders greater incentives to encourage their participation. More home owners whose mortgages are underwater could be placed in FHA-guaranteed mortgages.

This bill also gives the Department of Housing and Urban Development the resources it needs to help vulnerable and at-risk home owners. I am grateful to Chairman DODD for incorporating into the underlying bill an amendment I authored that will stop mortgage scams.

I wish more Senators would have followed Senator DURBIN's extraordinary lead and stood up to the banking industry so that we could have done more to help homeowners get relief through bankruptcy. It is simply unfair that struggling homeowners cannot access a bankruptcy court to climb out of a housing crisis like this, but owners of vacation properties can.

Just as our Nation's housing crisis is the root of our nation's economic crisis, these problems in Nevada have inflamed economic challenges in the State.

It is important that we be realistic. Neither these proposals nor any other piece of legislation will solve all of our problems. Forces outside the control of any legislature—whether State or Federal—will always combine to affect housing supply, prices and foreclosures.

Given the size and scope of the struggles too many Nevadans and Americans endure, it will take more time before housing normalizes again. But with this bill, we are working to hasten that day so that no family will ever accept losing its home as "the way it is."

Mr. LEVIN. Mr. President, I support the Helping Families Save Their Homes Act of 2009.

The foreclosure situation in my State of Michigan continues to be dire. According to data released by real estate firm RealtyTrac, even though there are less foreclosure filings than this time last year, there were still over 11,000 Michigan foreclosure filings in January 2009 alone. That is 1 foreclosure filing for every 397 households in just 1 month, which puts Michigan's foreclosure rate at the seventh highest in the Nation. Nationwide, foreclosure filings are up 18 percent compared to this time last year.

Unfortunately, homeowners facing foreclosure are not the only ones being impacted by this crisis. Property values have dropped significantly in many areas, due in large part to the increased number of abandoned and foreclosed homes. These losses in property

values also decrease State and local revenue from property taxes, creating shortfalls in revenues and reducing funding for important State and local programs and services.

Over the past year, Congress has taken a number of steps to help reduce the effects of this crisis. Today, the Senate is set to pass legislation that will further expand the tools available to homeowners facing foreclosure and increase access to these important programs. This legislation will expand access to the hope for homeowners program by providing incentives for servicers and lenders who participate in the program and streamlining borrower certification requirements. It will also expand the ability of FHA and Rural Housing to modify loans in order to help a homeowner avoid foreclosure and authorize additional funding for foreclosure prevention activities, including housing counseling and additional fair housing field workers.

Importantly, this act also creates additional enforcement tools to ensure the Department of Housing and Urban Development—HUD—is able to go after bad lenders who break the rules or misuse these programs.

In addition to these improvements, the act makes a number of changes to ensure the safety of depositors' savings, and improve the health of the banks and credit unions that are essential to our economic recovery.

Last year, we increased deposit insurance coverage from \$100,000 to \$250,000. That provision is set to expire at the end of this year. This act will extend the additional coverage for another 4 years. The act will also increase the borrowing authority of the FDIC to \$100 billion and of the National Credit Union Administration to \$6 billion. Collectively, these changes will help ensure the security of deposits for years to come.

The act also helps banks and credit unions that may be struggling to pay special assessments for their deposit insurance coverage. Due to the economic downturn, the insurance funds for these institutions are seeking additional funding through special assessments. And for many of these institutions, these assessments are at the absolute worst time—while they are trying to stabilize their capital positions. The act responsibly spreads out the period over which the insurance funds may seek these assessments, thereby giving the banks and credit unions the ability to preserve and more effectively use their precious capital. Lastly, the act creates a temporary corporate credit union stabilization fund to help ensure the stability and security of those who rely upon corporate credit unions.

This bill includes many improvements to current programs that will help the country dig out of this foreclosure crisis. To do so will require the efforts of Federal, State, and local governments, as well as community and neighborhood organizations, lenders,



brokers, and borrowers. This act will bring much-needed help to many of our homeowners who are trying desperately to save their homes as well as ensure that their savings are protected, and it deserves my support.

Mr. BEGICH. Mr. President, I commend Senators REED and BOND for bringing up the HEARTH Act in the form of their amendment, and for all the commitment they have shown to addressing homelessness in our Nation. While this amendment seeks to protect the homeless by expanding the definition of homelessness used by the Department of Housing and Urban Development, HUD, to a certain degree, it also places many unfortunate limitations on people living in several circumstances common to those who find themselves or their families temporarily without permanent lodging.

For instance, the definition proposed by my colleagues, Senators REED and BOND, would seem to exclude those who are sharing the housing of others due to loss of housing, economic hardship, or similar reasons, and those who are staying in motels due to the lack of adequate alternative accommodations. It would include people staying in motels if they only have enough money to stay for 14 days, and people in doubled-up situations only if there is “credible evidence” that the owner/renter of the housing will not then stay for more than 14 days. More troubling is the fact that children, youth, and families who meet other federal definitions of homelessness are included in the HUD definition only if they have been without permanent housing for a long period of time, and have moved frequently over that time, and can be expected to stay without permanent housing due to numerous barriers.

Over 70 percent of the homeless children and youth identified by public schools across the country last year—more than 500,000 students—were doubled-up or in motels, and therefore ineligible for HUD Homeless Assistance. In my home State of Alaska, the Anchorage School District, the largest in our State, has seen a quantum leap this school year in one category for which no school superintendent or resident can be proud: The number of school children in this State of being “doubled-up” numbers have increased 100 percent over last school year. Don’t think for a moment that doubled-up families have more stable housing than those in shelters. Doubled-up families change locations 3–12 times in the course of a school year. Families are in shelters generally for 30–90 days.

The Reed-Bond amendment would have the unfortunate effect of continuing to exclude most of these children and youth from HUD services and attention. The failure of the HUD definition to include these families and youth compounds educational problems and makes the task of providing a stable education much more difficult. I hope we can continue to work on this issue to ensure that HUD adopts a defi-

nition of homelessness that matches the reality of homelessness among families and youth, and is similar to definitions used by the U.S. Department of Education, the U.S. Department of Health and Human Services, and the U.S. Department of Justice.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Mr. DODD. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHN-SON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote “yea.”

The PRESIDING OFFICER (Mr. MERKLEY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—91

Akaka	Enzi	Mikulski
Alexander	Feingold	Murkowski
Barrasso	Feinstein	Murray
Baucus	Gillibrand	Nelson (NE)
Bayh	Graham	Nelson (FL)
Begich	Grassley	Pryor
Bennet	Hagan	Reed
Bennett	Harkin	Reid
Bingaman	Hatch	Risch
Bond	Hutchison	Roberts
Boxer	Inouye	Sanders
Brown	Isakson	Schumer
Brownback	Johanns	Sessions
Burr	Kaufman	Shaheen
Burris	Kerry	Shelby
Byrd	Klobuchar	Snowe
Cantwell	Kohl	Specter
Cardin	Kyl	Stabenow
Carper	Landrieu	Tester
Cassey	Lautenberg	Thune
Chambliss	Leahy	Udall (CO)
Cochran	Levin	Udall (NM)
Collins	Lieberman	Vitter
Conrad	Lincoln	Voinovich
Corker	Lugar	Warner
Cornyn	Martinez	Webb
Crapo	McCain	Whitehouse
Dodd	McCaskill	Wicker
Dorgan	McConnell	Wyden
Durbin	Menendez	
Ensign	Merkley	

NAYS—5

Bunning	DeMint	Inhofe
Coburn	Gregg	

NOT VOTING—3

Johnson	Kennedy	Rockefeller
---------	---------	-------------

The bill (S. 896), as amended, was passed, as follows:

S. 896

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Helping Families Save Their Homes Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is the following:

Sec. 1. Short title; table of contents.

### TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

Sec. 101. Guaranteed rural housing loans.

Sec. 102. Modification of housing loans guaranteed by the Department of Veterans Affairs.

Sec. 103. Additional funding for HUD programs to assist individuals to better withstand the current mortgage crisis.

Sec. 104. Mortgage modification data collecting and reporting.

Sec. 105. Neighborhood Stabilization Program Refinements.

### TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

Sec. 201. Servicer safe harbor for mortgage loan modifications.

Sec. 202. Changes to HOPE for Homeowners Program.

Sec. 203. Requirements for FHA-approved mortgagees.

Sec. 204. Enhancement of liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures.

Sec. 205. Application of GSE conforming loan limit to mortgages assisted with TARP funds.

Sec. 206. Mortgages on certain homes on leased land.

Sec. 207. Sense of Congress regarding mortgage revenue bond purchases.

### TITLE III—MORTGAGE FRAUD TASK FORCE

Sec. 301. Sense of the Congress on establishment of a Nationwide Mortgage Fraud Task Force.

### TITLE IV—FORECLOSURE MORATORIUM PROVISIONS

Sec. 401. Sense of the Congress on foreclosures.

Sec. 402. Public-Private Investment Program; Additional Appropriations for the Special Inspector General for the Troubled Asset Relief Program.

Sec. 403. Removal of requirement to liquidate warrants under the TARP.

Sec. 404. Notification of sale or transfer of mortgage loans.

### TITLE V—FARM LOAN RESTRUCTURING

Sec. 501. Congressional Oversight Panel special report.

### TITLE VI—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM

Sec. 601. Enhanced oversight of the Troubled Asset Relief Program.

### TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT

Sec. 701. Short title.

Sec. 702. Effect of foreclosure on preexisting tenancy.

Sec. 703. Effect of foreclosure on section 8 tenancies.

Sec. 704. Sunset.

### TITLE VIII—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

Sec. 801. Comptroller General additional audit authorities.

### TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

#### SEC. 101. GUARANTEED RURAL HOUSING LOANS.

(a) GUARANTEED RURAL HOUSING LOANS.—Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (12) the following new paragraphs:

“(13) **LOSS MITIGATION.**—Upon default or imminent default of any mortgage guaranteed under this subsection, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including actions such as special forbearance, loan modification, pre-foreclosure sale, deed in lieu of foreclosure, as required, support for borrower housing counseling, subordinate lien resolution, and borrower relocation), as provided for by the Secretary.

“(14) **PAYMENT OF PARTIAL CLAIMS AND MORTGAGE MODIFICATIONS.**—The Secretary may authorize the modification of mortgages, and establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence, for mortgages that are in default or face imminent default, as defined by the Secretary. Any payment under such program directed to the mortgagee shall be made at the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(A) the amount of the partial claim payment shall be in an amount determined by the Secretary, and shall not exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

“(B) the amount of the partial claim payment shall be applied first to any outstanding indebtedness on the mortgage, including any arrearage, but may also include principal reduction;

“(C) the mortgagor shall agree to repay the amount of the partial claim to the Secretary upon terms and conditions acceptable to the Secretary;

“(D) expenses related to a partial claim or modification are not to be charged to the borrower;

“(E) the Secretary may authorize compensation to the mortgagee for lost income on monthly mortgage payments due to interest rate reduction;

“(F) the Secretary may reimburse the mortgagee from the appropriate guaranty fund in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary;

“(G) the Secretary may authorize payments to the mortgagee on behalf of the borrower, under such terms and conditions as are defined by the Secretary, based on successful performance under the terms of the mortgage modification, which shall be used to reduce the principal obligation under the modified mortgage; and

“(H) the Secretary may authorize the modification of mortgages with terms extended up to 40 years from the date of modification.

“(15) **ASSIGNMENT.**—

“(A) **PROGRAM AUTHORITY.**—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence guaranteed under this chapter.

“(B) **PROGRAM REQUIREMENTS.**—

“(i) **IN GENERAL.**—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of the guaranty and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved under this section.

“(ii) **ACCEPTANCE OF ASSIGNMENT.**—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

“(I) the mortgage is in default or facing imminent default;

“(II) the mortgagee has modified the mortgage or qualified the mortgage for modification sufficient to cure the default and provide for mortgage payments the mortgagor is reasonably able to pay, at interest rates not exceeding current market interest rates; and

“(III) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate guaranty fund.

“(C) **PAYMENT OF GUARANTY.**—Under the program under this paragraph, the Secretary may pay the guaranty for a mortgage, in the amount determined in accordance with paragraph (2), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage, as defined by the Secretary.

“(D) **DISPOSITION.**—After modification of a mortgage pursuant to this paragraph, and assignment of the mortgage, the Secretary may provide guarantees under this subsection for the mortgage. The Secretary may subsequently—

“(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

“(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

“(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

“(E) **LOAN SERVICING.**—In carrying out the program under this subsection, the Secretary may require the existing servicer of a mortgage assigned to the Secretary under the program to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage. If the mortgage is resold pursuant to subparagraph (D)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.”

(b) **TECHNICAL AMENDMENTS.**—Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (5)(A), by striking “(as defined in paragraph (13))” and inserting “(as defined in paragraph (17))”; and

(2) in paragraph (18)(E)(as so redesignated by subsection (a)(2)), by—

(A) striking “paragraphs (3), (6), (7)(A), (8), and (10)” and inserting “paragraphs (3), (6), (7)(A), (8), (10), (13), and (14)”; and

(B) striking “paragraphs (2) through (13)” and inserting “paragraphs (2) through (15)”.

(c) **PROCEDURE.**—

(1) **IN GENERAL.**—The promulgation of regulations necessitated and the administration actions required by the amendments made by this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(2) **CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.**—In carrying out this section, and the amendments made by this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

#### **SEC. 102. MODIFICATION OF HOUSING LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) **MATURITY OF HOUSING LOANS.**—Section 3703(d)(1) of title 38, United States Code, is amended by inserting “at the time of origination” after “loan”.

(b) **IMPLEMENTATION.**—The Secretary of Veterans Affairs may implement the amendments made by this section through notice, procedure notice, or administrative notice.

#### **SEC. 103. ADDITIONAL FUNDING FOR HUD PROGRAMS TO ASSIST INDIVIDUALS TO BETTER WITHSTAND THE CURRENT MORTGAGE CRISIS.**

(a) **ADDITIONAL APPROPRIATIONS FOR ADVERTISING TO INCREASE PUBLIC AWARENESS OF MORTGAGE SCAMS AND COUNSELING ASSISTANCE.**—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$10,000,000 for each of the fiscal years 2010 and 2011 for purposes of providing additional resources to be used for advertising to raise awareness of mortgage fraud and to support HUD programs and approved counseling agencies, provided that such amounts are used to advertise in the 100 metropolitan statistical areas with the highest rate of home foreclosures, and provided, further that up to \$5,000,000 of such amounts are used for advertisements designed to reach and inform broad segments of the community.

(b) **ADDITIONAL APPROPRIATIONS FOR THE HOUSING COUNSELING ASSISTANCE PROGRAM.**—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$50,000,000 for each of the fiscal years 2010 and 2011 to carry out the Housing Counseling Assistance Program established within the Department of Housing and Urban Development, provided that such amounts are used to fund HUD-certified housing-counseling agencies located in the 100 metropolitan statistical areas with the highest rate of home foreclosures for the purpose of assisting homeowners with inquiries regarding mortgage-modification assistance and mortgage scams.

(c) **ADDITIONAL APPROPRIATIONS FOR PERSONNEL AT THE OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY.**—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, \$5,000,000 for each of the fiscal years 2010 and 2011 for purposes of hiring additional personnel at the Office of Fair Housing and Equal Opportunity within the Department of Housing and Urban Development, provided that such amounts are used to hire personnel at the local branches of such Office located in the 100 metropolitan statistical areas with the highest rate of home foreclosures.



**SEC. 104. MORTGAGE MODIFICATION DATA COLLECTING AND REPORTING.**

(a) **REPORTING REQUIREMENTS.**—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall jointly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) A copy of the data collection instrument currently used by the Office of the Comptroller of the Currency and the Office of Thrift Supervision to collect data on loan modifications.

(2) The total number of mortgage modifications resulting in each of the following:

(A) Additions of delinquent payments and fees to loan balances.

(B) Interest rate reductions and freezes.

(C) Term extensions.

(D) Reductions of principal.

(E) Deferrals of principal.

(F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(3) The total number of mortgage modifications in which the total monthly principal and interest payment resulted in the following:

(A) An increase.

(B) Remained the same.

(C) Decreased less than 10 percent.

(D) Decreased between 10 percent and 20 percent.

(E) Decreased 20 percent or more.

(4) The total number of loans that have been modified and then entered into default, where the loan modification resulted in—

(A) higher monthly payments by the homeowner;

(B) equivalent monthly payments by the homeowner;

(C) lower monthly payments by the homeowner of up to 10 percent;

(D) lower monthly payments by the homeowner of between 10 percent to 20 percent; or

(E) lower monthly payments by the homeowner of more than 20 percent.

(b) **DATA COLLECTION.**—

(1) **REQUIRED.**—

(A) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director.

(B) **INCLUSIVENESS OF COLLECTIONS.**—The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

(2) **REPORT.**—The Comptroller of the Currency shall report all requirements established under paragraph (1) to each committee receiving the report required under subsection (a).

**SEC. 105. NEIGHBORHOOD STABILIZATION PROGRAM REFINEMENTS.**

(a) **IN GENERAL.**—Section 2301 of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended—

(1) in subsection (b), by adding at the end the following:

“(5) **DISTRIBUTION OF FUNDS IN CERTAIN STATES; COMPETITION FOR FUNDS.**—Each State

that receives the minimum allocation of amounts pursuant to the requirement under section 2302 shall be permitted to use such amounts to address statewide concerns, provided that such amounts are made available for an eligible use described under paragraphs (3) and (4) of subsection (c).”; and

(2) in subsection (c), by adding at the end the following:

“(4) **FORECLOSURE PREVENTION AND MITIGATION.**—

“(A) **IN GENERAL.**—Each State and unit of general local government that receives an allocation of any covered amounts, as such amounts are distributed pursuant to section 2302, may use up to 10 percent of such amounts for foreclosure prevention programs, activities, and services, foreclosure mitigation programs, activities, and services, or both, as such programs, activities, and services are defined by the Secretary.

“(B) **DEFINITION OF COVERED AMOUNTS.**—For purposes of this paragraph, the term ‘covered amount’ means any amounts appropriated—

“(i) under this section as in effect on the date of enactment of this section; and

“(ii) under the heading ‘Community Development Fund’ of title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 217).”.

(b) **RETROACTIVE EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if enacted on the date of enactment of the Foreclosure Prevention Act of 2008 (Public Law 110–289).

**TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY****SEC. 201. SERVICER SAFE HARBOR FOR MORTGAGE LOAN MODIFICATIONS.**

(a) **CONGRESSIONAL FINDINGS.**—Congress finds the following:

(1) Increasing numbers of mortgage foreclosures are not only depriving many Americans of their homes, but are also destabilizing property values and negatively affecting State and local economies as well as the national economy.

(2) In order to reduce the number of foreclosures and to stabilize property values, local economies, and the national economy, servicers must be given—

(A) authorization to—

(i) modify mortgage loans and engage in other loss mitigation activities consistent with applicable guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

(ii) refinance mortgage loans under the Hope for Homeowners program; and

(B) a safe harbor to enable such servicers to exercise these authorities.

(b) **SAFE HARBOR.**—Section 129A of the Truth in Lending Act (15 U.S.C. 1639a) is amended to read as follows:

**“SEC. 129. DUTY OF SERVICERS OF RESIDENTIAL MORTGAGES.**

“(a) **IN GENERAL.**—Notwithstanding any other provision of law, whenever a servicer of residential mortgages agrees to enter into a qualified loss mitigation plan with respect to 1 or more residential mortgages originated before the date of enactment of the Helping Families Save Their Homes Act of 2009, including mortgages held in a securitization or other investment vehicle—

“(1) to the extent that the servicer owes a duty to investors or other parties to maximize the net present value of such mortgages, the duty shall be construed to apply to all such investors and parties, and not to any individual party or group of parties; and

“(2) the servicer shall be deemed to have satisfied the duty set forth in paragraph (1) if, before December 31, 2012, the servicer implements a qualified loss mitigation plan that meets the following criteria:

“(A) Default on the payment of such mortgage has occurred, is imminent, or is reasonably foreseeable, as such terms are defined by guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008.

“(B) The mortgagor occupies the property securing the mortgage as his or her principal residence.

“(C) The servicer reasonably determined, consistent with the guidelines issued by the Secretary of the Treasury or his designee, that the application of such qualified loss mitigation plan to a mortgage or class of mortgages will likely provide an anticipated recovery on the outstanding principal mortgage debt that will exceed the anticipated recovery through foreclosures.

“(b) **NO LIABILITY.**—A servicer that is deemed to be acting in the best interests of all investors or other parties under this section shall not be liable to any party who is owed a duty under subsection (a)(1), and shall not be subject to any injunction, stay, or other equitable relief to such party, based solely upon the implementation by the servicer of a qualified loss mitigation plan.

“(c) **STANDARD INDUSTRY PRACTICE.**—The qualified loss mitigation plan guidelines issued by the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008 shall constitute standard industry practice for purposes of all Federal and State laws.

“(d) **SCOPE OF SAFE HARBOR.**—Any person, including a trustee, issuer, and loan originator, shall not be liable for monetary damages or be subject to an injunction, stay, or other equitable relief, based solely upon the cooperation of such person with a servicer when such cooperation is necessary for the servicer to implement a qualified loss mitigation plan that meets the requirements of subsection (a).

“(e) **REPORTING.**—Each servicer that engages in qualified loss mitigation plans under this section shall regularly report to the Secretary of the Treasury the extent, scope, and results of the servicer’s modification activities. The Secretary of the Treasury shall prescribe regulations or guidance specifying the form, content, and timing of such reports.

“(f) **DEFINITIONS.**—As used in this section—

“(1) the term ‘qualified loss mitigation plan’ means—

“(A) a residential loan modification, workout, or other loss mitigation plan, including to the extent that the Secretary of the Treasury determines appropriate, a loan sale, real property disposition, trial modification, pre-foreclosure sale, and deed in lieu of foreclosure, that is described or authorized in guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

“(B) a refinancing of a mortgage under the Hope for Homeowners program;

“(2) the term ‘servicer’ means the person responsible for the servicing for others of residential mortgage loans (including of a pool of residential mortgage loans); and

“(3) the term ‘securitization vehicle’ means a trust, special purpose entity, or other legal structure that is used to facilitate the issuing of securities, participation certificates, or similar instruments backed by or referring to a pool of assets that includes residential mortgages (or instruments that are related to residential mortgages such as credit-linked notes).”.

**SEC. 202. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.**

(a) **PROGRAM CHANGES.**—Section 257 of the National Housing Act (12 U.S.C. 1715z–23) is amended—

(1) in subsection (c)—

(A) in the heading for paragraph (1), by striking “THE BOARD” and inserting “SECRETARY”;

(B) in paragraph (1), by striking “Board” inserting “Secretary, after consultation with the Board.”;

(C) in paragraph (1)(A), by inserting “consistent with section 203(b) to the maximum extent possible” before the semicolon; and

(D) by adding after paragraph (2) the following:

“(3) DUTIES OF BOARD.—The Board shall advise the Secretary regarding the establishment and implementation of the HOPE for Homeowners Program.”;

(2) by striking “Board” each place such term appears in subsections (e), (h)(1), (h)(3), (j), (l), (n), (s)(3), and (v) and inserting “Secretary”;

(3) in subsection (e)—

(A) by striking paragraph (1) and inserting the following:

“(1) BORROWER CERTIFICATION.—

“(A) NO INTENTIONAL DEFAULT OR FALSE INFORMATION.—The mortgagor shall provide a certification to the Secretary that the mortgagor has not intentionally defaulted on the existing mortgage or mortgages or any other substantial debt within the last 5 years and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining the eligible mortgage to be insured and has not been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

“(B) LIABILITY FOR REPAYMENT.—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Secretary.

“(C) CURRENT BORROWER DEBT-TO-INCOME RATIO.—As of the date of application for a commitment to insure or insurance under this section, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Secretary determines appropriate).”;

(B) in paragraph (4)—

(i) in subparagraph (A), by striking “, subject to standards established by the Board under subparagraph (B).”;

(ii) in subparagraph (B)(i), by striking “shall” and inserting “may”;

(C) in paragraph (7), by striking “; and provided that” and all that follows through “new second lien”;

(D) in paragraph (9)—

(i) by striking “by procuring (A) an income tax return transcript of the income tax return of the mortgagor, or (B)” and inserting “in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are consistent with section 203(b) to the maximum extent possible) which may include requiring the mortgagee to procure”;

(ii) by striking “and by any other method, in accordance with procedures and standards that the Board shall establish”;

(E) in paragraph (10)—

(i) by striking “The mortgagor shall not” and inserting the following:

“(A) PROHIBITION.—The mortgagor shall not”;

(ii) by adding at the end the following:

“(B) DUTY OF MORTGAGEE.—The duty of the mortgagee to ensure that the mortgagor is in compliance with the prohibition under subparagraph (A) shall be satisfied if the mortgagee makes a good faith effort to determine that the mortgagor has not been convicted under Federal or State law for fraud during the period described in subparagraph (A).”;

(F) in paragraph (11), by inserting before the period at the end the following: “, except that the Secretary may provide exceptions to such latter requirement (relating to present ownership interest) for any mortgagor who has inherited a property”;

(G) by adding at the end:

“(12) BAN ON MILLIONAIRES.—The mortgagor shall not have a net worth, as of the date the mortgagor first applies for a mortgage to be insured under the Program under this section, that exceeds \$1,000,000.”;

(4) in subsection (h)(2), by striking “The Board shall prohibit the Secretary from paying” and inserting “The Secretary shall not pay”;

(5) in subsection (i)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(B) in the matter preceding subparagraph (A), as redesignated by this paragraph, by striking “For each” and inserting the following:

“(1) PREMIUMS.—For each”;

(C) in subparagraph (A), as redesignated by this paragraph, by striking “equal to 3 percent” and inserting “not more than 3 percent”;

(D) in subparagraph (B), as redesignated by this paragraph, by striking “equal to 1.5 percent” and inserting “not more than 1.5 percent”;

(E) by adding at the end the following:

“(2) CONSIDERATIONS.—In setting the premium under this subsection, the Secretary shall consider—

“(A) the financial integrity of the HOPE for Homeowners Program; and

“(B) the purposes of the HOPE for Homeowners Program described in subsection (b).”;

(6) in subsection (k)—

(A) by striking the subsection heading and inserting “EXIT FEE”;

(B) in paragraph (1), in the matter preceding subparagraph (A), by striking “such sale or refinancing” and inserting “the mortgage being insured under this section”;

(C) in paragraph (2), by striking “and the mortgagor” and all that follows through the end and inserting “may, upon any sale or disposition of the property to which the mortgage relates, be entitled to up to 50 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with the holder of the existing senior mortgage on the eligible mortgage, the holder of any existing subordinate mortgage on the eligible mortgage, or both.”;

(7) in the heading for subsection (n), by striking “THE BOARD” and inserting “SECRETARY”;

(8) in subsection (p), by striking “Under the direction of the Board, the” and inserting “The”;

(9) in subsection (s)—

(A) in the first sentence of paragraph (2), by striking “Board of Directors of” and inserting “Advisory Board for”;

(B) in paragraph (3)(A)(ii), by striking “subsection (e)(1)(B) and such other” and inserting “such”;

(10) in subsection (v), by inserting after the period at the end the following: “The Secretary shall conform documents, forms, and

procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.”;

(11) by adding at the end the following new subsections:

“(x) PAYMENTS TO SERVICERS AND ORIGINATORS.—The Secretary may establish a payment to the—

“(1) servicer of the existing senior mortgage for every loan insured under the HOPE for Homeowners Program; and

“(2) originator of each new loan insured under the HOPE for Homeowners Program.

“(y) AUCTIONS.—The Secretary, with the concurrence of the Board, shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.”;

(b) REDUCING TARP FUNDS TO OFFSET COSTS OF PROGRAM CHANGES.—Paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$2,316,000,000,” after “\$700,000,000,000”.

(c) TECHNICAL CORRECTION.—The second section 257 of the National Housing Act (Public Law 110-289; 122 Stat. 2839; 12 U.S.C. 1715z-24) is amended by striking the section heading and inserting the following:

**“SEC. 258. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.”.**  
**SEC. 203. REQUIREMENTS FOR FHA-APPROVED MORTGAGEES.**

(a) MORTGAGEE REVIEW BOARD.—

(1) IN GENERAL.—Section 202(c)(2) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(A) in subparagraph (E), by inserting “and” after the semicolon;

(B) in subparagraph (F), by striking “; and” and inserting “or their designees.”;

(C) by striking subparagraph (G).

(2) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD’S POWER TO TAKE ACTION AGAINST MORTGAGEES.—Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended by adding at the end the following new paragraph:

“(9) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD’S POWER TO TAKE ACTION AGAINST MORTGAGEES.—No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.”.

(b) LIMITATIONS ON PARTICIPATION AND MORTGAGEE APPROVAL AND USE OF NAME.—Section 202 of the National Housing Act (12 U.S.C. 1708) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following new subsection:

“(d) LIMITATIONS ON PARTICIPATION IN ORIGINATION AND MORTGAGEE APPROVAL.—

“(1) REQUIREMENT.—Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

“(2) ELIGIBILITY FOR APPROVAL.—In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

“(A) currently suspended, debarred, under a limited denial of participation (LDP), or

otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

“(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant’s integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

“(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

“(D) engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;

“(E) convicted of, or who has pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry—

“(i) during the 7-year period preceding the date of the application for licensing and registration; or

“(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

“(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

“(G) in violation of any other requirement as established by the Secretary.

“(3) RULEMAKING AND IMPLEMENTATION.—The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon the date of the enactment of this subsection by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.”; and

(3) by adding at the end the following new subsection:

“(h) USE OF NAME.—The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

“(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

“(2) to maintain copies of all such advertisements and promotional materials, in such form and for such period as the Secretary requires.”.

(c) PAYMENT FOR LOSS MITIGATION.—Section 204(a)(2) of the National Housing Act (12 U.S.C. 1710(a)(2)) is amended—

(1) by inserting “or faces imminent default, as defined by the Secretary” after “default”;

(2) by inserting “support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale,” after “loan modification,”; and

(3) by striking “204(a)(1)(A)” and inserting “subsection (a)(1)(A) or section 203(c)”.

(d) PAYMENT OF FHA MORTGAGE INSURANCE BENEFITS.—

(1) ADDITIONAL LOSS MITIGATION ACTIONS.—Section 230(a) of the National Housing Act (12 U.S.C. 1715u(a)) is amended—

(A) by inserting “or imminent default, as defined by the Secretary” after “default”;

(B) by striking “loss” and inserting “loan”;

(C) by inserting “preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives,” after “loan modification,”;

(D) by inserting “as required,” after “deeds in lieu of foreclosure,”; and

(E) by inserting “or section 230(c),” before “as provided”.

(2) AMENDMENT TO PARTIAL CLAIM AUTHORITY.—Section 230(b) of the National Housing Act (12 U.S.C. 1715u(b)) is amended to read as follows:

“(b) PAYMENT OF PARTIAL CLAIM.—

“(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default or faces imminent default, as defined by the Secretary.

“(2) PAYMENTS AND EXCEPTIONS.—Any payment of a partial claim under the program established in paragraph (1) to a mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(A) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

“(B) the amount of the partial claim payment shall first be applied to any arrearage on the mortgage, and may also be applied to achieve principal reduction;

“(C) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary;

“(D) the Secretary may permit compensation to the mortgagee for lost income on monthly payments, due to a reduction in the interest rate charged on the mortgage;

“(E) expenses related to the partial claim or modification may not be charged to the borrower;

“(F) loans may be modified to extend the term of the mortgage to a maximum of 40 years from the date of the modification; and

“(G) the Secretary may permit incentive payments to the mortgagee, on the borrower’s behalf, based on successful performance of a modified mortgage, which shall be used to reduce the amount of principal indebtedness.

“(3) PAYMENTS IN CONNECTION WITH CERTAIN ACTIVITIES.—The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.”.

(3) ASSIGNMENT.—Section 230(c) of the National Housing Act (12 U.S.C. 1715u(c)) is amended—

(A) by inserting “(1)” after “(c)”;

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) in paragraph (1)(B) (as so redesignated)—

(i) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(ii) in the matter preceding clause (i) (as so redesignated), by striking “under a program under this subsection” and inserting “under this paragraph”; and

(iii) in clause (i) (as so redesignated), by inserting “or facing imminent default, as defined by the Secretary” after “default”;

(D) in paragraph (1)(C) (as so redesignated), by striking “under a program under this subsection” and inserting “under this paragraph”; and

(E) by adding at the end the following:

“(2) ASSIGNMENT AND LOAN MODIFICATION.—

“(A) AUTHORITY.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary,

through the payment of insurance benefits and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

“(B) PAYMENT OF BENEFITS AND ASSIGNMENT.—In carrying out this paragraph, the Secretary may pay insurance benefits for a mortgage, in the amount determined in accordance with section 204(a)(5), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of section 204(a)(1)(A).

“(C) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, the Secretary may provide insurance under this title for the mortgage. The Secretary may subsequently—

“(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

“(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

“(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

“(D) LOAN SERVICING.—In carrying out this paragraph, the Secretary may require the existing servicer of a mortgage assigned to the Secretary to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage, provided that the Secretary compensates the existing servicer appropriately, as such compensation is determined by the Secretary consistent, to the maximum extent possible, with section 203(b). If the mortgage is resold pursuant to subparagraph (C)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.”.

(4) IMPLEMENTATION.—The Secretary of Housing and Urban Development may implement the amendments made by this subsection through notice or mortgagee letter.

(e) CHANGE OF STATUS.—The National Housing Act is amended by striking section 532 (12 U.S.C. 1735f-10) and inserting the following new section:

**“SEC. 532. CHANGE OF MORTGAGEE STATUS.**

“(a) NOTIFICATION.—Upon the occurrence of any action described in subsection (b), an approved mortgagee shall immediately submit to the Secretary, in writing, notification of such occurrence.

“(b) ACTIONS.—The actions described in this subsection are as follows:

“(1) The debarment, suspension or a Limited Denial of Participation (LDP), or application of other sanctions, other exclusions, fines, or penalties applied to the mortgagee or to any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the mortgagee pursuant to applicable provisions of State or Federal law.

“(2) The revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any other similar declaration of ineligibility pursuant to State law.”.

(f) CIVIL MONEY PENALTIES.—Section 536 of the National Housing Act (12 U.S.C. 1735f-14) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting “or any of its owners, officers, or directors” after “mortgagee or lender”;

(ii) in subparagraph (H), by striking “title I” and all that follows through “under this Act.” and inserting “title I or II of this Act, or any implementing regulation, handbook, or mortgagee letter that is issued under this Act.”; and

(iii) by inserting after subparagraph (J) the following:

“(K) Violation of section 202(d) of this Act (12 U.S.C. 1708(d)).

“(L) Use of ‘Federal Housing Administration’, ‘Department of Housing and Urban Development’, ‘Government National Mortgage Association’, ‘Ginnie Mae’, the acronyms ‘HUD’, ‘FHA’, or ‘GNMA’, or any official seal or logo of the Department of Housing and Urban Development, except as authorized by the Secretary.”;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking “or” at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following new subparagraph:

“(D) causing or participating in any of the violations set forth in paragraph (1) of this subsection.”; and

(C) by amending paragraph (3) to read as follows:

“(3) PROHIBITION AGAINST MISLEADING USE OF FEDERAL ENTITY DESIGNATION.—The Secretary may impose a civil money penalty, as adjusted from time to time, under subsection (a) for any use of ‘Federal Housing Administration’, ‘Department of Housing and Urban Development’, ‘Government National Mortgage Association’, ‘Ginnie Mae’, the acronyms ‘HUD’, ‘FHA’, or ‘GNMA’, or any official seal or logo of the Department of Housing and Urban Development, by any person, party, company, firm, partnership, or business, including sellers of real estate, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers, except as authorized by the Secretary.”; and

(2) in subsection (g), by striking “The term” and all that follows through the end of the sentence and inserting “For purposes of this section, a person acts knowingly when a person has actual knowledge of acts or should have known of the acts.”.

(g) EXPANDED REVIEW OF FHA MORTGAGEE APPLICANTS AND NEWLY APPROVED MORTGAGEES.—Not later than the expiration of the 3-month period beginning upon the date of the enactment of this Act, the Secretary of Housing and Urban Development shall—

(1) expand the existing process for reviewing new applicants for approval for participation in the mortgage insurance programs of the Secretary for mortgages on 1- to 4-family residences for the purpose of identifying applicants who represent a high risk to the Mutual Mortgage Insurance Fund; and

(2) implement procedures that, for mortgages approved during the 12-month period ending upon such date of enactment—

(A) expand the number of mortgages originated by such mortgagees that are reviewed for compliance with applicable laws, regulations, and policies; and

(B) include a process for random reviews of such mortgagees and a process for reviews that is based on volume of mortgages originated by such mortgagees.

#### SEC. 204. ENHANCEMENT OF LIQUIDITY AND STABILITY OF INSURED DEPOSITORY INSTITUTIONS TO ENSURE AVAILABILITY OF CREDIT AND REDUCTION OF FORECLOSURES.

(a) TEMPORARY INCREASE IN DEPOSIT INSURANCE EXTENDED.—Section 136 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5241) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “December 31, 2009” and inserting “December 31, 2013”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking “December 31, 2009” and inserting “December 31, 2013”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “December 31, 2009” and inserting “December 31, 2013”;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking “December 31, 2009” and inserting “December 31, 2013”; and

(b) EXTENSION OF RESTORATION PLAN PERIOD.—Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking “5-year period” and inserting “8-year period”.

(c) FDIC AND NCUA BORROWING AUTHORITY.—

(1) FDIC.—Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(A) by striking “\$30,000,000,000” and inserting “\$100,000,000,000”;

(B) by striking “The Corporation is authorized” and inserting the following:

“(1) IN GENERAL.—The Corporation is authorized”;

(C) by striking “There are hereby” and inserting the following:

“(2) FUNDING.—There are hereby”; and

(D) by adding at the end the following:

“(3) TEMPORARY INCREASES AUTHORIZED.—

“(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the \$100,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed \$500,000,000,000.

“(B) REPORT REQUIRED.—If the borrowing authority of the Corporation is increased above \$100,000,000,000 pursuant to subparagraph (A), the Corporation shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.

“(C) RESTRICTION ON USAGE.—The Corporation may not borrow pursuant to subparagraph (A) to fund obligations of the Corporation incurred as a part of a program established by the Secretary of the Treasury pursuant to the Emergency Economic Stabilization Act of 2008 to purchase or guarantee assets.”.

(2) NCUA.—Section 203(d)(1) of the Federal Credit Union Act (12 U.S.C. 1783(d)(1)) is amended to read as follows:

“(1) If, in the judgment of the Board, a loan to the insurance fund, or to the stabilization fund described in section 217 of this title, is required at any time for purposes of this subchapter, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate \$6,000,000,000 outstanding at any one time. Except as otherwise provided in this subsection, section 217, and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Board and the Secretary of the Treasury.”.

(3) TEMPORARY INCREASES OF BORROWING AUTHORITY FOR NCUA.—Section 203(d) of the Federal Credit Union Act (12 U.S.C. 1783(d)) is amended by adding at the end the following:

“(4) TEMPORARY INCREASES AUTHORIZED.—

“(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board (upon a vote of not less than two-thirds of the members of the Board) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the \$6,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed \$30,000,000,000.

“(B) REPORT REQUIRED.—If the borrowing authority of the Board is increased above \$6,000,000,000 pursuant to subparagraph (A), the Board shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.”.

(d) EXPANDING SYSTEMIC RISK SPECIAL ASSESSMENTS.—Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read as follows:

“(ii) REPAYMENT OF LOSS.—

“(I) IN GENERAL.—The Corporation shall recover the loss to the Deposit Insurance Fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) from 1 or more special assessments on insured depository institutions, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the Corporation determines to be appropriate.

“(II) TREATMENT OF DEPOSITORY INSTITUTION HOLDING COMPANIES.—For purposes of this clause, sections 7(c)(2) and 18(h) shall apply to depository institution holding companies as if they were insured depository institutions.

“(III) REGULATIONS.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Corporation shall establish rates sufficient to cover the losses incurred as a result of the actions of the Corporation under clause (i) and shall consider: the types of entities that benefit from any action taken or assistance provided under this subparagraph; economic conditions, the effects on the industry, and such other factors as the Corporation deems appropriate and relevant to the action taken or the assistance provided. Any funds so collected that exceed actual losses shall be placed in the Deposit Insurance Fund.”.

(e) ESTABLISHMENT OF A NATIONAL CREDIT UNION SHARE INSURANCE FUND RESTORATION PLAN PERIOD.—Section 202(c)(2) of the Federal Credit Union Act (12 U.S.C. 1782(c)(2)) is amended by adding at the end the following new subparagraph:

“(D) FUND RESTORATION PLANS.—

“(i) IN GENERAL.—Whenever—

“(I) the Board projects that the equity ratio of the Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (C); or

“(II) the equity ratio of the Fund actually falls below the minimum amount specified in subparagraph (C) without any determination under sub-clause (I) having been made,

the Board shall establish and implement a restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Board determines to be appropriate.

“(ii) REQUIREMENTS OF RESTORATION PLAN.—A restoration plan meets the requirements of this clause if the plan provides that the equity ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (C) before the end of the 8-year period beginning upon the implementation of the plan (or such longer period as the Board may determine to be necessary due to extraordinary circumstances).

“(iii) TRANSPARENCY.—Not more than 30 days after the Board establishes and implements a restoration plan under clause (i), the Board shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.”.

(f) TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.—

(1) ESTABLISHMENT OF STABILIZATION FUND.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section: “SEC. 217. TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.

“(a) ESTABLISHMENT OF STABILIZATION FUND.—There is hereby created in the Treasury of the United States a fund to be known as the ‘Temporary Corporate Credit Union Stabilization Fund.’ The Board will administer the Stabilization Fund as prescribed by section 209.

“(b) EXPENDITURES FROM STABILIZATION FUND.—Money in the Stabilization Fund shall be available upon requisition by the Board, without fiscal year limitation, for making payments for the purposes described in section 203(a), subject to the following additional limitations:

“(1) All payments other than administrative payments shall be connected to the conservatorship, liquidation, or threatened conservatorship or liquidation, of a corporate credit union.

“(2) Prior to authorizing each payment the Board shall—

“(A) certify that, absent the existence of the Stabilization Fund, the Board would have made the identical payment out of the National Credit Union Share Insurance Fund (Insurance Fund); and

“(B) report each such certification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

“(c) AUTHORITY TO BORROW.—

(1) IN GENERAL.—The Stabilization Fund is authorized to borrow from the Secretary of the Treasury from time-to-time as deemed necessary by the Board. The maximum outstanding amount of all borrowings from the Treasury by the Stabilization Fund and the National Credit Union Share Insurance Fund, combined, is limited to the amount provided for in section 203(d)(1), including any authorized increases in that amount.

“(2) REPAYMENT OF ADVANCES.—

“(A) IN GENERAL.—The advances made under this section shall be repaid by the Stabilization Fund, and interest on such advance shall be paid, to the General fund of the Treasury.

“(B) VARIABLE RATE OF INTEREST.—The Secretary of the Treasury shall make the first rate determination at the time of the first advance under this section and shall reset the rate again for all advances on each anniversary of the first advance. The interest rate shall be equal to the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity equal to 12 months.

“(3) REPAYMENT SCHEDULE.—The Stabilization Fund shall repay the advances on a first-in, first-out basis, with interest on the amount repaid, at times and dates determined by the Board at its discretion. All advances shall be repaid not later than the date of the seventh anniversary of the first advance to the Stabilization Fund, unless the Board extends this final repayment date. The Board shall obtain the concurrence of the Secretary of the Treasury on any proposed extension, including the terms and conditions of the extended repayment.

“(d) ASSESSMENT TO REPAY ADVANCES.—At least 90 days prior to each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and determine if the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund might not have sufficient funds to make the repayment, the Board shall assess each federally insured credit union a special premium due and payable within 60 days in an aggregate amount calculated to ensure the Stabilization Fund is able to make the repayment. The premium charge for each credit union shall be stated as a percentage of its insured shares as represented on the credit union’s previous call report. The percentage shall be identical for each credit union. Any credit union that fails to make timely payment of the special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 202.

“(e) DISTRIBUTIONS FROM INSURANCE FUND.—At the end of any calendar year in which the Stabilization Fund has an outstanding advance from the Treasury, the Insurance Fund is prohibited from making the distribution to insured credit unions described in section 202(c)(3). In lieu of the distribution described in that section, the Insurance Fund shall make a distribution to the Stabilization Fund of the maximum amount possible that does not reduce the Insurance Fund’s equity ratio below the normal operating level and does not reduce the Insurance Fund’s available assets ratio below 1.0 percent.

“(f) INVESTMENT OF STABILIZATION FUND ASSETS.—The Board may request the Secretary of the Treasury to invest such portion of the Stabilization Fund as is not, in the Board’s judgment, required to meet the current needs of the Stabilization Fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the Stabilization Fund, as determined by the Board, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

“(g) REPORTS.—The Board shall submit an annual report to Congress on the financial condition and the results of the operation of the Stabilization Fund. The report is due to Congress within 30 days after each anniversary of the first advance made under subsection (c)(1). Because the Fund will use ad-

vances from the Treasury to meet corporate stabilization costs with full repayment of borrowings to Treasury at the Board’s discretion not due until 7 years from the initial advance, to the extent operating expenses of the Fund exceed income, the financial condition of the Fund may reflect a deficit. With planned and required future repayments, the Board shall resolve all deficits prior to termination of the Fund.

“(h) CLOSING OF STABILIZATION FUND.—Within 90 days following the seventh anniversary of the initial Stabilization Fund advance, or earlier at the Board’s discretion, the Board shall distribute any funds, property, or other assets remaining in the Stabilization Fund to the Insurance Fund and shall close the Stabilization Fund. If the Board extends the final repayment date as permitted under subsection (c)(3), the mandatory date for closing the Stabilization Fund shall be extended by the same number of days.”.

(2) CONFORMING AMENDMENT.—Section 202(c)(3)(A) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)(A)) is amended by inserting “, subject to the requirements of section 217(e),” after “The Board shall”.

#### SEC. 205. APPLICATION OF GSE CONFORMING LOAN LIMIT TO MORTGAGES ASSISTED WITH TARP FUNDS.

In making any assistance available to prevent and mitigate foreclosures on residential properties, including any assistance for mortgage modifications, using any amounts made available to the Secretary of the Treasury under title I of the Emergency Economic Stabilization Act of 2008, the Secretary shall provide that the limitation on the maximum original principal obligation of a mortgage that may be modified, refinanced, made, guaranteed, insured, or otherwise assisted, using such amounts shall not be less than the dollar amount limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal Home Loan Mortgage Corporation that is in effect, at the time that the mortgage is modified, refinanced, made, guaranteed, insured, or otherwise assisted using such amounts, for the area in which the property involved in the transaction is located.

#### SEC. 206. MORTGAGES ON CERTAIN HOMES ON LEASED LAND.

Section 255(b)(4) of the National Housing Act (12 U.S.C. 1715z–20(b)(4)) is amended by striking subparagraph (B) and inserting:

“(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.”.

#### SEC. 207. SENSE OF CONGRESS REGARDING MORTGAGE REVENUE BOND PURCHASES.

It is the sense of the Congress that the Secretary of the Treasury should use amounts made available in this Act to purchase mortgage revenue bonds for single-family housing issued through State housing finance agencies and through units of local government and agencies thereof.

#### TITLE III—MORTGAGE FRAUD TASK FORCE

#### SEC. 301. SENSE OF CONGRESS ON ESTABLISHMENT OF A NATIONWIDE MORTGAGE FRAUD TASK FORCE.

(a) IN GENERAL.—It is the sense of the Congress that the Department of Justice establish a Nationwide Mortgage Fraud Task Force (hereinafter referred to in this section as the “Task Force”) to address mortgage fraud in the United States.

(b) SUPPORT.—If the Department of Justice establishes the Task Force referred to in

subsection (a), it is the sense of the Congress that the Attorney General should provide the Task Force with the appropriate staff, administrative support, and other resources necessary to carry out the duties of the Task Force.

(c) **MANDATORY FUNCTIONS.**—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should—

(1) establish coordinating entities, and solicit the voluntary participation of Federal, State, and local law enforcement and prosecutorial agencies in such entities, to organize initiatives to address mortgage fraud, including initiatives to enforce State mortgage fraud laws and other related Federal and State laws;

(2) provide training to Federal, State, and local law enforcement and prosecutorial agencies with respect to mortgage fraud, including related Federal and State laws;

(3) collect and disseminate data with respect to mortgage fraud, including Federal, State, and local data relating to mortgage fraud investigations and prosecutions; and

(4) perform other functions determined by the Attorney General to enhance the detection of, prevention of, and response to mortgage fraud in the United States.

(d) **OPTIONAL FUNCTIONS.**—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Task Force should—

(1) initiate and coordinate Federal mortgage fraud investigations and, through the coordinating entities described under subsection (c), State and local mortgage fraud investigations;

(2) establish a toll-free hotline for—

(A) reporting mortgage fraud;

(B) providing the public with access to information and resources with respect to mortgage fraud; and

(C) directing reports of mortgage fraud to the appropriate Federal, State, and local law enforcement and prosecutorial agency, including to the appropriate branch of the Task Force established under subsection (d);

(3) create a database with respect to suspensions and revocations of mortgage industry licenses and certifications to facilitate the sharing of such information by States;

(4) make recommendations with respect to the need for and resources available to provide the equipment and training necessary for the Task Force to combat mortgage fraud; and

(5) propose legislation to Federal, State, and local legislative bodies with respect to the elimination and prevention of mortgage fraud, including measures to address mortgage loan procedures and property appraiser practices that provide opportunities for mortgage fraud.

#### **TITLE IV—FORECLOSURE MORATORIUM PROVISIONS**

##### **SEC. 401. SENSE OF THE CONGRESS ON FORECLOSURES.**

(a) **IN GENERAL.**—It is the sense of the Congress that mortgage holders, institutions, and mortgage servicers should not initiate a foreclosure proceeding or a foreclosure sale on any homeowner until the foreclosure mitigation provisions, like the Hope for Homeowners program, as required under title II, and the President's "Homeowner Affordability and Stability Plan" have been implemented and determined to be operational by the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(b) **SCOPE OF MORATORIUM.**—The foreclosure moratorium referred to in subsection (a) should apply only for first mortgages secured by the owner's principal dwelling.

(c) **FHA-REGULATED LOAN MODIFICATION AGREEMENTS.**—If a mortgage holder, institution, or mortgage servicer to which subsection (a) applies reaches a loan modification agreement with a homeowner under the auspices of the Federal Housing Administration before any plan referred to in such subsection takes effect, subsection (a) shall cease to apply to such institution as of the effective date of the loan modification agreement.

(d) **DUTY OF CONSUMER TO MAINTAIN PROPERTY.**—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should not, with respect to any property securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(e) **DUTY OF CONSUMER TO RESPOND TO REASONABLE INQUIRIES.**—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should respond to reasonable inquiries from a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

##### **SEC. 402. PUBLIC-PRIVATE INVESTMENT PROGRAM; ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.**

(a) **SHORT TITLE.**—This section may be cited as the "Public-Private Investment Program Improvement and Oversight Act of 2009".

(b) **PUBLIC-PRIVATE INVESTMENT PROGRAM.**—

(1) **IN GENERAL.**—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Troubled Asset Relief Program (in this section referred to as the "Special Inspector General"), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section referred to as the "Secretary") that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private investment fund to identify for the Secretary each investor that, individually or together with its affiliates, directly or indirectly holds equity interests in the fund acquired as a result of—

(i) any investment by such investor or any of its affiliates in a vehicle formed for the purpose of directly or indirectly investing in the fund; or

(ii) any other investment decision by such investor or any of its affiliates to directly or indirectly invest in the fund that, in the aggregate, equal at least 10 percent of the equity interests in such fund.

(2) **INTERACTION BETWEEN PUBLIC-PRIVATE INVESTMENT FUNDS AND THE TERM-ASSET BACKED SECURITIES LOAN FACILITY.**—The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage that could result from interactions between such programs.

(3) **REPORT.**—Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

##### **(c) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL.**—

(1) **IN GENERAL.**—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), \$15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) **PRIORITIES.**—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) **RULE OF CONSTRUCTION.**—Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insurance Corporation in connection with insured depository institutions, as described in section 13(c)(2)(B) of the Federal Deposit Insurance Act.

(e) **DEFINITION.**—In this section, the term "public-private investment fund" means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or



funds appropriated under the Emergency Economic Stabilization Act of 2008.

(f) **OFFSET OF COSTS OF PROGRAM CHANGES.**—Notwithstanding the amendment made by section 202(b) of this Act, paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$2,331,000,000,” after “\$700,000,000,000”.

**SEC. 403. REMOVAL OF REQUIREMENT TO LIQUIDATE WARRANTS UNDER THE TARP.**

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended by striking “shall liquidate warrants associated with such assistance at the current market price” and inserting “, at the market price, may liquidate warrants associated with such assistance”.

**SEC. 404. NOTIFICATION OF SALE OR TRANSFER OF MORTGAGE LOANS.**

(a) **IN GENERAL.**—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following:

“(g) **NOTICE OF NEW CREDITOR.**—

“(1) **IN GENERAL.**—In addition to other disclosures required by this title, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—

“(A) the identity, address, telephone number of the new creditor;

“(B) the date of transfer;

“(C) how to reach an agent or party having authority to act on behalf of the new creditor;

“(D) the location of the place where transfer of ownership of the debt is recorded; and

“(E) any other relevant information regarding the new creditor.

“(2) **DEFINITION.**—As used in this subsection, the term ‘mortgage loan’ means any consumer credit transaction that is secured by the principal dwelling of a consumer.”.

(b) **PRIVATE RIGHT OF ACTION.**—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended by inserting “subsection (f) or (g) of section 131,” after “section 125.”.

**TITLE V—FARM LOAN RESTRUCTURING**

**SEC. 501. CONGRESSIONAL OVERSIGHT PANEL SPECIAL REPORT.**

Section 125(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5233(b)) is amended by adding at the end the following:

“(3) **SPECIAL REPORT ON FARM LOAN RESTRUCTURING.**—Not later than 60 days after the date of enactment of this paragraph, the Oversight Panel shall submit a special report on farm loan restructuring that—

“(A) analyzes the state of the commercial farm credit markets and the use of loan restructuring as an alternative to foreclosure by recipients of financial assistance under the Troubled Asset Relief Program; and

“(B) includes an examination of and recommendation on the different methods for farm loan restructuring that could be used as part of a foreclosure mitigation program for farm loans made by recipients of financial assistance under the Troubled Asset Relief Program, including any programs for direct loan restructuring or modification carried out by the Farm Service Agency of the Department of Agriculture, the farm credit system, and the Making Home Affordable Program of the Department of the Treasury.”.

**TITLE VI—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM**

**SEC. 601. ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM.**

Section 116 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5226) is amended—

(1) in subsection (a)(1)(A)—

(A) in clause (iii), by striking “and” at the end;

(B) in clause (iv), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this Act.”; and

(2) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (F); and

(B) by striking subparagraphs (A) and (B) and inserting the following:

“(A) **DEFINITION.**—In this paragraph, the term ‘governmental unit’ has the meaning given under section 101(27) of title 11, United States Code, and does not include any insured depository institution as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 813).

“(B) **GAO PRESENCE.**—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 5230 of this title.

“(C) **ACCESS TO RECORDS.**—

“(i) **IN GENERAL.**—Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, any entity established by the Secretary under this Act, any entity that is established by a Federal reserve bank and receives funding from the TARP, or any entity (other than a governmental unit) participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

“(ii) **VERIFICATION.**—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

“(iii) **COPIES.**—The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.

“(D) **AGREEMENT BY ENTITIES.**—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity (other than a governmental unit) participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.

“(E) **RESTRICTION ON PUBLIC DISCLOSURE.**—

“(i) **IN GENERAL.**—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

“(ii) **EXCEPTION FOR CONGRESSIONAL COMMITTEES.**—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over a private or public entity referred to under subparagraph (C).

“(iii) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, section 714(c) of title 31, United

States Code, or other applicable provisions of law.”.

**TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT**

**SEC. 701. SHORT TITLE.**

This title may be cited as the “Protecting Tenants at Foreclosure Act of 2009”.

**SEC. 702. EFFECT OF FORECLOSURE ON PRE-EXISTING TENANCY.**

(a) **IN GENERAL.**—In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) **BONA FIDE LEASE OR TENANCY.**—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; or

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

(c) **DEFINITION.**—For purposes of this section, the term “federally-related mortgage loan” has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

**SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.**

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semicolon in subparagraph (C) the following: “and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the initial term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

“(i) will occupy the unit as a primary residence; and

“(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.”; and

(2) by inserting at the end of subparagraph (F) the following: “In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to

the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.”.

#### SEC. 704. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

### TITLE VIII—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

#### SEC. 801. COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.

(a) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking “Federal Reserve Board,” and inserting “Board of Governors of the Federal Reserve System (in this section referred to as the ‘Board’),”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “Federal Reserve Board,” and inserting “Board”; and

(B) in paragraph (4), by striking “of Governors”.

(b) CONFIDENTIAL INFORMATION.—Section 714(c) of title 31, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

“(4) This subsection shall not—

“(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

“(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.”.

(c) ACCESS TO RECORDS.—Section 714(d) of title 31, United States Code, is amended—

(1) in paragraph (1), by inserting “The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.” after the first sentence;

(2) in paragraph (2), by inserting “, copies of any record,” after “records”; and

(3) by adding at the end the following:

“(3)(A) For purposes of conducting audits and examinations under subsection (e), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

“(i) any entity established by any action taken by the Board described under subsection (e);

“(ii) any entity receiving assistance from any action taken by the Board described under subsection (e), to the extent that the access and request relates to that assistance; and

“(iii) the officers, directors, employees, independent public accountants, financial

advisors and any and all representatives of any entity described under clause (i) or (ii); to the extent that the access and request relates to that assistance;

“(B) The Comptroller General shall have access as provided under subparagraph (A) at such time as the Comptroller General may request.

“(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by the Board or any Federal reserve bank) and an entity receiving assistance from any action taken by the Board described under subsection (e) shall provide for access by the Comptroller General in accordance with this paragraph.”.

(d) AUDITS OF CERTAIN ACTIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended by adding at the end the following:

“(e) Notwithstanding subsection (b), the Comptroller General may conduct audits, including onsite examinations when the Comptroller General determines such audits and examinations are appropriate, of any action taken by the Board under the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343); with respect to a single and specific partnership or corporation.”.

### DIVISION B—HOMELESSNESS REFORM

#### SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the “Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

#### DIVISION B—HOMELESSNESS REFORM

Sec. 1001. Short title; table of contents.

Sec. 1002. Findings and purposes.

Sec. 1003. Definition of homelessness.

Sec. 1004. United States Interagency Council on Homelessness.

#### TITLE I—HOUSING ASSISTANCE GENERAL PROVISIONS

Sec. 1101. Definitions.

Sec. 1102. Community homeless assistance planning boards.

Sec. 1103. General provisions.

Sec. 1104. Protection of personally identifying information by victim service providers.

Sec. 1105. Authorization of appropriations.

#### TITLE II—EMERGENCY SOLUTIONS GRANTS PROGRAM

Sec. 1201. Grant assistance.

Sec. 1202. Eligible activities.

Sec. 1203. Participation in Homeless Management Information System.

Sec. 1204. Administrative provision.

Sec. 1205. GAO study of administrative fees.

#### TITLE III—CONTINUUM OF CARE PROGRAM

Sec. 1301. Continuum of care.

Sec. 1302. Eligible activities.

Sec. 1303. High performing communities.

Sec. 1304. Program requirements.

Sec. 1305. Selection criteria, allocation amounts, and funding.

Sec. 1306. Research.

#### TITLE IV—RURAL HOUSING STABILITY ASSISTANCE PROGRAM

Sec. 1401. Rural housing stability assistance.

Sec. 1402. GAO study of homelessness and homeless assistance in rural areas.

#### TITLE V—REPEALS AND CONFORMING AMENDMENTS

Sec. 1501. Repeals.

Sec. 1502. Conforming amendments.

Sec. 1503. Effective date.

Sec. 1504. Regulations.

Sec. 1505. Amendment to table of contents.

#### SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) a lack of affordable housing and limited scale of housing assistance programs are the primary causes of homelessness; and

(2) homelessness affects all types of communities in the United States, including rural, urban, and suburban areas.

(b) PURPOSES.—The purposes of this division are—

(1) to consolidate the separate homeless assistance programs carried out under title IV of the McKinney-Vento Homeless Assistance Act (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, and the shelter plus care program) into a single program with specific eligible activities;

(2) to codify in Federal law the continuum of care planning process as a required and integral local function necessary to generate the local strategies for ending homelessness; and

(3) to establish a Federal goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.

#### SEC. 1003. DEFINITION OF HOMELESSNESS.

(a) IN GENERAL.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(2) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—For purposes of this Act, the terms ‘homeless’, ‘homeless individual’, and ‘homeless person’ means—

“(1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;

“(2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

“(3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);

“(4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;

“(5) an individual or family who—

“(A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by—

“(i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

“(ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

“(iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;

“(B) has no subsequent residence identified; and

“(C) lacks the resources or support networks needed to obtain other permanent housing; and

“(6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who—

“(A) have experienced a long term period without living independently in permanent housing,

“(B) have experienced persistent instability as measured by frequent moves over such period, and

“(C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

“(b) DOMESTIC VIOLENCE AND OTHER DANGEROUS OR LIFE-THREATENING CONDITIONS.—Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.”.

(b) REGULATIONS.—Not later than the expiration of the 6-month period beginning upon the date of the enactment of this division, the Secretary of Housing and Urban Development shall issue regulations that provide sufficient guidance to recipients of funds under title IV of the McKinney-Vento Homeless Assistance Act to allow uniform and consistent implementation of the requirements of section 103 of such Act, as amended by subsection (a) of this section. This subsection shall take effect on the date of the enactment of this division.

(c) CLARIFICATION OF EFFECT ON OTHER LAWS.—This section and the amendments made by this section to section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) may not be construed to affect, alter, limit, annul, or supersede any other provision of Federal law providing a definition of “homeless”, “homeless individual”, or “homeless person” for purposes other than such Act, except to the extent that such provision refers to such section 103 or the definition provided in such section 103.

**SEC. 1004. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.**

(a) IN GENERAL.—Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by inserting before the period at the end the following “whose mission shall be to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the Federal Government in contributing to the end of homelessness”;

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by redesignating paragraph (16) as paragraph (22); and

(ii) by inserting after paragraph (15) the following:

“(16) The Commissioner of Social Security, or the designee of the Commissioner.

“(17) The Attorney General of the United States, or the designee of the Attorney General.

“(18) The Director of the Office of Management and Budget, or the designee of the Director.

“(19) The Director of the Office of Faith-Based and Community Initiatives, or the designee of the Director.

“(20) The Director of USA Freedom Corps, or the designee of the Director.”;

(B) in subsection (c), by striking “annually” and inserting “four times each year, and the rotation of the positions of Chairperson and Vice Chairperson required under subsection (b) shall occur at the first meeting of each year”; and

(C) by adding at the end the following:

“(e) ADMINISTRATION.—The Executive Director of the Council shall report to the Chairman of the Council.”;

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (9), (10), and (11), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A), the following:

“(1) not later than 12 months after the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, develop, make available for public comment, and submit to the President and to Congress a National Strategic Plan to End Homelessness, and shall update such plan annually.”;

(C) in paragraph (5), as redesignated by subparagraph (A), by striking “at least 2, but in no case more than 5” and inserting “not less than 5, but in no case more than 10”;

(D) by inserting after paragraph (5), as so redesignated by subparagraph (A), the following:

“(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of jurisdictional 10-year plans to end homelessness at State, city, and county levels;

“(7) annually obtain from Federal agencies their identification of consumer-oriented entitlement and other resources for which persons experiencing homelessness may be eligible and the agencies' identification of improvements to ensure access; develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the reports entitled ‘Homelessness: Coordination and Evaluation of Programs Are Essential’, issued February 26, 1999, and ‘Homelessness: Barriers to Using Mainstream Programs’, issued July 6, 2000;

“(8) conduct research and evaluation related to its functions as defined in this section;

“(9) develop joint Federal agency and other initiatives to fulfill the goals of the agency”;

(E) in paragraph (10), as so redesignated by subparagraph (A), by striking “and” at the end;

(F) in paragraph (11), as so redesignated by subparagraph (A), by striking the period at the end and inserting a semicolon;

(G) by adding at the end the following new paragraphs:

“(12) develop constructive alternatives to criminalizing homelessness and eliminate laws and policies that prohibit sleeping, feeding, sitting, resting, or lying in public spaces when there are no suitable alternatives, result in the destruction of a homeless person's property without due process,

or are selectively enforced against homeless persons; and

“(13) not later than the expiration of the 6-month period beginning upon completion of the study requested in a letter to the Acting Comptroller General from the Chair and Ranking Member of the House Financial Services Committee and several other members regarding various definitions of homelessness in Federal statutes, convene a meeting of representatives of all Federal agencies and committees of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families, local and State governments, academic researchers who specialize in homelessness, nonprofit housing and service providers that receive funding under any Federal program to assist homeless individuals or families, organizations advocating on behalf of such nonprofit providers and homeless persons receiving housing or services under any such Federal program, and homeless persons receiving housing or services under any such Federal program, at which meeting such representatives shall discuss all issues relevant to whether the definitions of ‘homeless’ under paragraphs (1) through (4) of section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended by section 1003 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, should be modified by the Congress, including whether there is a compelling need for a uniform definition of homelessness under Federal law, the extent to which the differences in such definitions create barriers for individuals to accessing services and to collaboration between agencies, and the relative availability, and barriers to access by persons defined as homeless, of mainstream programs identified by the Government Accountability Office in the two reports identified in paragraph (7) of this subsection; and shall submit transcripts of such meeting, and any majority and dissenting recommendations from such meetings, to each committee of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families not later than the expiration of the 60-day period beginning upon conclusion of such meeting.”.

(4) in section 203(b)(1) (42 U.S.C. 11313(b))—

(A) by striking “Federal” and inserting “national”;

(B) by striking “; and” and inserting “and pay for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made”;

(5) in section 205(d) (42 U.S.C. 11315(d)), by striking “property.” and inserting “property, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Council.”; and

(6) by striking section 208 (42 U.S.C. 11318) and inserting the following:

**“SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this title \$3,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal years 2011. Any amounts appropriated to carry out this title shall remain available until expended.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on, and shall apply beginning on, the date of the enactment of this division.

## **TITLE I—HOUSING ASSISTANCE GENERAL PROVISIONS**

### **SEC. 1101. DEFINITIONS.**

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

**"Subtitle A—General Provisions";**

(2) by redesignating sections 401 and 402 (42 U.S.C. 11361, 11362) as sections 403 and 406, respectively; and

(3) by inserting before section 403 (as so redesignated by paragraph (2) of this section) the following new section:

**"SEC. 401. DEFINITIONS.**

"For purposes of this title:

"(1) **AT RISK OF HOMELESSNESS.**—The term 'at risk of homelessness' means, with respect to an individual or family, that the individual or family—

"(A) has income below 30 percent of median income for the geographic area;

"(B) has insufficient resources immediately available to attain housing stability; and

"(C)(i) has moved frequently because of economic reasons;

"(ii) is living in the home of another because of economic hardship;

"(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

"(iv) lives in a hotel or motel;

"(v) lives in severely overcrowded housing;

"(vi) is exiting an institution; or

"(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Such term includes all families with children and youth defined as homeless under other Federal statutes.

"(2) **CHRONICALLY HOMELESS.**—

"(A) **IN GENERAL.**—The term 'chronically homeless' means, with respect to an individual or family, that the individual or family—

"(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

"(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

"(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

"(B) **RULE OF CONSTRUCTION.**—A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

"(3) **COLLABORATIVE APPLICANT.**—The term 'collaborative applicant' means an entity that—

"(A) carries out the duties specified in section 402;

"(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

"(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

"(4) **COLLABORATIVE APPLICATION.**—The term 'collaborative application' means an application for a grant under subtitle C that—

"(A) satisfies section 422; and

"(B) is submitted to the Secretary by a collaborative applicant.

"(5) **CONSOLIDATED PLAN.**—The term 'Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

"(6) **ELIGIBLE ENTITY.**—The term 'eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to directly receive grant amounts under such subtitle.

"(7) **FAMILIES WITH CHILDREN AND YOUTH DEFINED AS HOMELESS UNDER OTHER FEDERAL STATUTES.**—The term 'families with children and youth defined as homeless under other Federal statutes' means any children or youth that are defined as 'homeless' under any Federal statute other than this subtitle, but are not defined as homeless under section 103, and shall also include the parent, parents, or guardian of such children or youth under subtitle B of title VII this Act (42 U.S.C. 11431 et seq.).

"(8) **GEOGRAPHIC AREA.**—The term 'geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

"(9) **HOMELESS INDIVIDUAL WITH A DISABILITY.**—

"(A) **IN GENERAL.**—The term 'homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

"(i)(I) is expected to be long-continuing or of indefinite duration;

"(II) substantially impedes the individual's ability to live independently;

"(III) could be improved by the provision of more suitable housing conditions; and

"(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

"(i) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

"(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

"(B) **RULE.**—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

"(10) **LEGAL ENTITY.**—The term 'legal entity' means—

"(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of such Code;

"(B) an instrumentality of State or local government; or

"(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

"(11) **METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.**—The terms 'metropolitan city', 'urban county', and 'nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

"(12) **NEW.**—The term 'new' means, with respect to housing, that no assistance has been provided under this title for the housing.

"(13) **OPERATING COSTS.**—The term 'operating costs' means expenses incurred by a project sponsor operating transitional housing or permanent housing under this title with respect to—

"(A) the administration, maintenance, repair, and security of such housing;

"(B) utilities, fuel, furnishings, and equipment for such housing; or

"(C) coordination of services as needed to ensure long-term housing stability.

"(14) **OUTPATIENT HEALTH SERVICES.**—The term 'outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse services.

"(15) **PERMANENT HOUSING.**—The term 'permanent housing' means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

"(16) **PERSONALLY IDENTIFYING INFORMATION.**—The term 'personally identifying information' means individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

"(A) a first and last name;

"(B) a home or other physical address;

"(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

"(D) a social security number; and

"(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

"(17) **PRIVATE NONPROFIT ORGANIZATION.**—The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(18) **PROJECT.**—The term 'project' means, with respect to activities carried out under subtitle C, eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

"(19) **PROJECT-BASED.**—The term 'project-based' means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

"(A) is between—

"(i) the recipient or a project sponsor; and

"(ii) an owner of a structure that exists as of the date the contract is entered into; and

"(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

"(20) **PROJECT SPONSOR.**—The term 'project sponsor' means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

"(21) **RECIPIENT.**—Except as used in subtitle B, the term 'recipient' means an eligible entity who—

"(A) submits an application for a grant under section 422 that is approved by the Secretary;

"(B) receives the grant directly from the Secretary to support approved projects described in the application; and

"(C)(i) serves as a project sponsor for the projects; or

"(ii) awards the funds to project sponsors to carry out the projects.

“(22) SECRETARY.—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“(23) SERIOUS MENTAL ILLNESS.—The term ‘serious mental illness’ means a severe and persistent mental illness or emotional impairment that seriously limits a person’s ability to live independently.

“(24) SOLO APPLICANT.—The term ‘solo applicant’ means an entity that is an eligible entity, directly submits an application for a grant under subtitle C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

“(25) SPONSOR-BASED.—The term ‘sponsor-based’ means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

“(A) is between—

“(i) the recipient or a project sponsor; and

“(ii) an independent entity that—

“(I) is a private organization; and

“(II) owns or leases dwelling units; and

“(B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

“(26) STATE.—Except as used in subtitle B, the term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

“(27) SUPPORTIVE SERVICES.—The term ‘supportive services’ means services that address the special needs of people served by a project, including—

“(A) the establishment and operation of a child care services program for families experiencing homelessness;

“(B) the establishment and operation of an employment assistance program, including providing job training;

“(C) the provision of outpatient health services, food, and case management;

“(D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

“(E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;

“(F) the provision of mental health services, trauma counseling, and victim services;

“(G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

“(H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual’s ability to obtain and retain housing;

“(I) the provision of—

“(i) transportation services that facilitate an individual’s ability to obtain and maintain employment; and

“(ii) health care; and

“(J) other supportive services necessary to obtain and maintain housing.

“(28) TENANT-BASED.—The term ‘tenant-based’ means, with respect to rental assistance, assistance that—

“(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

“(i) in a particular structure or unit for not more than the first year of the participation;

“(ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

“(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

“(29) TRANSITIONAL HOUSING.—The term ‘transitional housing’ means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

“(30) UNIFIED FUNDING AGENCY.—The term ‘unified funding agency’ means a collaborative applicant that performs the duties described in section 402(g).

“(31) UNDERSERVED POPULATIONS.—The term ‘underserved populations’ includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

“(32) VICTIM SERVICE PROVIDER.—The term ‘victim service provider’ means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women’s shelters, domestic violence transitional housing programs, and other programs.

“(33) VICTIM SERVICES.—The term ‘victim services’ means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.”

#### SEC. 1102. COMMUNITY HOMELESS ASSISTANCE PLANNING BOARDS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 401 (as added by section 1101(3) of this division) the following new section:

##### “SEC. 402. COLLABORATIVE APPLICANTS.

“(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

“(1) submit an application for amounts under this subtitle; and

“(2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

“(b) NO REQUIREMENT TO BE A LEGAL ENTITY.—An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

“(c) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

“(d) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

“(e) APPOINTMENT OF AGENT.—

“(1) IN GENERAL.—Subject to paragraph (2), a collaborative applicant may designate an agent to—

“(A) apply for a grant under section 422(c);

“(B) receive and distribute grant funds awarded under subtitle C; and

“(C) perform other administrative duties.

“(2) RETENTION OF DUTIES.—Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this title.

“(f) DUTIES.—A collaborative applicant shall—

“(1) design a collaborative process for the development of an application under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to provide information necessary for the Secretary—

“(A) to determine compliance with—

“(i) the program requirements under section 426; and

“(ii) the selection criteria described under section 427; and

“(B) to establish priorities for funding projects in the geographic area involved;

“(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

“(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as ‘HMIS’) that—

“(A) collects unduplicated counts of individuals and families experiencing homelessness;

“(B) analyzes patterns of use of assistance provided under subtitles B and C for the geographic area involved;

“(C) provides information to project sponsors and applicants for needs analyses and funding priorities; and

“(D) is developed in accordance with standards established by the Secretary, including standards that provide for—

“(i) encryption of data collected for purposes of HMIS;

“(ii) documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data;

“(iii) access to HMIS data by staff, contractors, law enforcement, and academic researchers;

“(iv) rights of persons receiving services under this title;

“(v) criminal and civil penalties for unlawful disclosure of data; and

“(vi) such other standards as may be determined necessary by the Secretary.

“(g) UNIFIED FUNDING.—

“(1) IN GENERAL.—In addition to the duties described in subsection (f), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

“(A) the collaborative applicant—

“(i) applies to undertake such collection and distribution responsibilities in an application submitted under this subtitle; and

“(ii) is selected to perform such responsibilities by the Secretary; or

“(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

“(i) a finding by the Secretary that the applicant—

“(I) has the capacity to perform such responsibilities; and

“(II) would serve the purposes of this Act as they apply to the geographic area; and

“(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities as such assistance is agreed to by the collaborative applicant.

“(2) **REQUIRED ACTIONS BY A UNIFIED FUNDING AGENCY.**—A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

“(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

“(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

“(h) **CONFLICT OF INTEREST.**—No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.”.

#### **SEC. 1103. GENERAL PROVISIONS.**

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 403 (as so redesignated by section 1101(2) of this division) the following new sections:

#### **“SEC. 404. PREVENTING INVOLUNTARY FAMILY SEPARATION.**

“(a) **IN GENERAL.**—After the expiration of the 2-year period that begins upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, and except as provided in subsection (b), any project sponsor receiving funds under this title to provide emergency shelter, transitional housing, or permanent housing to families with children under age 18 shall not deny admission to any family based on the age of any child under age 18.

“(b) **EXCEPTION.**—Notwithstanding the requirement under subsection (a), project sponsors of transitional housing receiving funds under this title may target transitional housing resources to families with children of a specific age only if the project sponsor—

“(1) operates a transitional housing program that has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group; and

“(2) provides such assurances, as the Secretary shall require, that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.

#### **“SEC. 405. TECHNICAL ASSISTANCE.**

“(a) **IN GENERAL.**—The Secretary shall make available technical assistance to private nonprofit organizations and other non-governmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties, to implement effective planning processes for preventing and ending homelessness, to improve their capacity to prepare collaborative applications, to prevent the separation of families in emergency shelter or other housing programs, and to

adopt and provide best practices in housing and services for persons experiencing homelessness.

“(b) **RESERVATION.**—The Secretary shall reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to provide technical assistance under subsection (a).”.

#### **SEC. 1104. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.**

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

#### **“SEC. 407. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.**

“In the course of awarding grants or implementing programs under this title, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of the Homeless Management Information System any personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of the Homeless Management Information System non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.”.

#### **SEC. 1105. AUTHORIZATION OF APPROPRIATIONS.**

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

#### **“SEC. 408. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this title \$2,200,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal year 2011.”.

### **TITLE II—EMERGENCY SOLUTIONS GRANTS PROGRAM**

#### **SEC. 1201. GRANT ASSISTANCE.**

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

#### **“Subtitle B—Emergency Solutions Grants Program”;**

(2) by striking section 417 (42 U.S.C. 11377);

(3) by redesignating sections 413 through 416 (42 U.S.C. 11373–6) as sections 414 through 417, respectively; and

(4) by striking section 412 (42 U.S.C. 11372) and inserting the following:

#### **“SEC. 412. GRANT ASSISTANCE.**

“The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness or at risk of homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 415.

#### **“SEC. 413. AMOUNT AND ALLOCATION OF ASSISTANCE.**

“(a) **IN GENERAL.**—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally 20 percent of such amount for activities described in section 415. The Secretary shall be required to certify that such allocation will not adversely affect the renewal of existing projects under this subtitle and subtitle C for those individuals or families who are homeless.

“(b) **ALLOCATION.**—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 415, in consultation with the collaborative applicants.”; and

(5) in section 414(b) (42 U.S.C. 11373(b)), as so redesignated by paragraph (3) of this section, by striking “amounts appropriated” and all that follows through “for any” and inserting “amounts appropriated under section 408 and made available to carry out this subtitle for any”.

#### **SEC. 1202. ELIGIBLE ACTIVITIES.**

The McKinney-Vento Homeless Assistance Act is amended by striking section 415 (42 U.S.C. 11374), as so redesignated by section 1201(3) of this division, and inserting the following new section:

#### **“SEC. 415. ELIGIBLE ACTIVITIES.**

“(a) **IN GENERAL.**—Assistance provided under section 412 may be used for the following activities:

“(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

“(2) The provision of essential services related to emergency shelter or street outreach, including services concerned with employment, health, education, family support services for homeless youth, substance abuse services, victim services, or mental health services, if—

“(A) such essential services have not been provided by the local government during any part of the immediately preceding 12-month period or the Secretary determines that the local government is in a severe financial deficit; or

“(B) the use of assistance under this subtitle would complement the provision of those essential services.

“(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter.

“(4) Provision of rental assistance to provide short-term or medium-term housing to homeless individuals or families or individuals or families at risk of homelessness. Such rental assistance may include tenant-based or project-based rental assistance.

“(5) Housing relocation or stabilization services for homeless individuals or families or individuals or families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, utility payments, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at—

“(A) stabilizing individuals and families in their current housing; or

“(B) quickly moving such individuals and families to other permanent housing.

“(b) **MAXIMUM ALLOCATION FOR EMERGENCY SHELTER ACTIVITIES.**—A grantee of assistance provided under section 412 for any fiscal year may not use an amount of such assistance for activities described in paragraphs (1) through (3) of subsection (a) that exceeds the greater of—

“(1) 60 percent of the aggregate amount of such assistance provided for the grantee for such fiscal year; or

“(2) the amount expended by such grantee for such activities during fiscal year most recently completed before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009.”.



**SEC. 1203. PARTICIPATION IN HOMELESS MANAGEMENT INFORMATION SYSTEM.**

Section 416 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11375), as so redesignated by section 1201(3) of this division, is amended by adding at the end the following new subsection:

“(f) PARTICIPATION IN HMIS.—The Secretary shall ensure that recipients of funds under this subtitle ensure the consistent participation by emergency shelters and homelessness prevention and rehousing programs in any applicable community-wide homeless management information system.”.

**SEC. 1204. ADMINISTRATIVE PROVISION.**

Section 418 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11378) is amended by striking “5 percent” and inserting “7.5 percent”.

**SEC. 1205. GAO STUDY OF ADMINISTRATIVE FEES.**

Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall—

(1) conduct a study to examine the appropriate administrative costs for administering the program authorized under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.); and

(2) submit to Congress a report on the findings of the study required under paragraph (1).

**TITLE III—CONTINUUM OF CARE PROGRAM****SEC. 1301. CONTINUUM OF CARE.**

The McKinney-Vento Homeless Assistance Act is amended—

(1) by striking the subtitle heading for subtitle C of title IV (42 U.S.C. 11381 et seq.) and inserting the following:

“**Subtitle C—Continuum of Care Program**”; and

(2) by striking sections 421 and 422 (42 U.S.C. 11381 and 11382) and inserting the following new sections:

**“SEC. 421. PURPOSES.**

“The purposes of this subtitle are—

“(1) to promote community-wide commitment to the goal of ending homelessness;

“(2) to provide funding for efforts by nonprofit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

“(3) to promote access to, and effective utilization of, mainstream programs described in section 203(a)(7) and programs funded with State or local resources; and

“(4) to optimize self-sufficiency among individuals and families experiencing homelessness.”.

**“SEC. 422. CONTINUUM OF CARE APPLICATIONS AND GRANTS.**

“(a) PROJECTS.—The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

“(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a notification of funding availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of the enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for such fiscal year.

“(c) APPLICATIONS.—

“(1) SUBMISSION TO THE SECRETARY.—To be eligible to receive a grant under subsection

(a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary—

“(A) to determine compliance with the program requirements and selection criteria under this subtitle; and

“(B) to establish priorities for funding projects in the geographic area.

“(2) ANNOUNCEMENT OF AWARDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall announce, within 5 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

“(B) TRANSITION.—For a period of up to 2 years beginning after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall announce, within 6 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

“(d) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

“(1) REQUIREMENTS FOR OBLIGATION.—

“(A) IN GENERAL.—Not later than 9 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements, except as provided in subparagraphs (B) and (C).

“(B) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 24 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under subsection (c)(2) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

“(C) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient or project sponsor shall meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, obtaining approvals from State or local governments, or completing the technical submission requirements for the project.

“(2) OBLIGATION.—Not later than 45 days after a recipient or project sponsor meets the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.

“(3) DISTRIBUTION.—A recipient that receives funds through such a grant—

“(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

“(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

“(4) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by

the recipient or project sponsors involved. The date established under this paragraph shall not occur before the expiration of the 24-month period beginning on the date that funds are obligated for activities described under paragraphs (1) or (2) of section 423(a). The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

“(e) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines meets the purposes of this subtitle, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

“(f) CONSIDERATIONS IN DETERMINING RENEWAL FUNDING.—When providing renewal funding for leasing, operating costs, or rental assistance for permanent housing, the Secretary shall make adjustments proportional to increases in the fair market rents in the geographic area.

“(g) MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 427.

“(h) APPEALS.—

“(1) IN GENERAL.—The Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to a collaborative application or solo application for funding.

“(2) PROCESS.—The Secretary shall ensure that the procedure permits appeals submitted by entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), and all other applicants under this subtitle.

“(i) SOLO APPLICANTS.—A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 427, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

“(j) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—

“(1) IN GENERAL.—A collaborative applicant may use not more than 10 percent of funds awarded under this subtitle (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 423(a) to serve families with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 103(a)(6), but only if the applicant demonstrates that the use of such funds is of an equal or greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 427(b)(1)(B), especially with respect to children and unaccompanied youth.

“(2) LIMITATIONS.—The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

“(3) TREATMENT OF CERTAIN POPULATIONS.—

“(A) IN GENERAL.—Notwithstanding section 103(a) and subject to subparagraph (B), funds awarded under this subtitle may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this subtitle.

“(B) AT RISK OF HOMELESSNESS.—Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) from qualifying for, and being treated for purposes of this subtitle as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this subtitle for which individuals or families that are at risk of homelessness are eligible.”.

#### SEC. 1302. ELIGIBLE ACTIVITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 423 (42 U.S.C. 11383) and inserting the following new section:

##### “SEC. 423. ELIGIBLE ACTIVITIES.

“(a) IN GENERAL.—Grants awarded under section 422 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

“(1) Construction of new housing units to provide transitional or permanent housing.

“(2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.

“(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

“(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this Act, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 429. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.

“(5) Payment of operating costs for housing units assisted under this subtitle or for the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.

“(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.

“(7) Provision of rehousing services, including housing search, mediation or out-

reach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

“(A) are effective at moving homeless individuals and families immediately into housing; or

“(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

“(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 402(f)(3).

“(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.

“(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 402(f), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs.

“(11) In the case of a collaborative applicant that is a unified funding agency under section 402(g), payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

“(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made available to that project sponsor through this subtitle for such costs.

“(b) MINIMUM GRANT TERMS.—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

“(c) USE RESTRICTIONS.—

“(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

“(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

“(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

“(d) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

“(1) REPAYMENT.—If a recipient or project sponsor receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

“(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

“(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

“(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

“(3) EXCEPTION.—A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

“(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

“(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle;

“(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or

“(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

“(e) STAFF TRAINING.—The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

“(f) ELIGIBILITY FOR PERMANENT HOUSING.—Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 428 may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

“(g) ADMINISTRATION OF RENTAL ASSISTANCE.—Provision of permanent housing rental assistance shall be administered by a State, unit of general local government, or public housing agency.”.

#### SEC. 1303. HIGH PERFORMING COMMUNITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 424 (42 U.S.C. 11384) and inserting the following:

##### “SEC. 424. INCENTIVES FOR HIGH-PERFORMING COMMUNITIES.

“(a) DESIGNATION AS A HIGH-PERFORMING COMMUNITY.—

“(1) IN GENERAL.—The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

“(2) CONSIDERATION.—In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of

subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

“(3) 2-YEAR PHASE IN.—In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

“(4) EXCESS OF QUALIFIED APPLICANTS.—If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

“(5) TIME LIMIT ON DESIGNATION.—The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

“(b) APPLICATION.—

“(1) IN GENERAL.—A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

“(2) CONTENT OF APPLICATION.—In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

“(A) a report showing how any money received under this subtitle in the preceding year was expended; and

“(B) information that such applicant can meet the requirements described under subsection (d).

“(3) PUBLICATION OF APPLICATION.—The Secretary shall—

“(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

“(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

“(c) USE OF FUNDS.—Funds awarded under section 422(a) to a project sponsor who is located in a high-performing community may be used—

“(1) for any of the eligible activities described in section 423; or

“(2) for any of the eligible activities described in paragraphs (4) and (5) of section 415(a).

“(d) DEFINITION OF HIGH-PERFORMING COMMUNITY.—For purposes of this section, the term ‘high-performing community’ means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

“(1) TERM OF HOMELESSNESS.—The mean length of episodes of homelessness for that geographic area—

“(A) is less than 20 days; or

“(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

“(2) FAMILIES LEAVING HOMELESSNESS.—Of individuals and families—

“(A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

“(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless

again within the next 2 years has decreased by at least 20 percent from the preceding year.

“(3) COMMUNITY ACTION.—The communities that compose the geographic area have—

“(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

“(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

“(4) EFFECTIVENESS OF PREVIOUS ACTIVITIES.—If recipients in the geographic area have used funding awarded under section 422(a) for eligible activities described under section 415(a) in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

“(5) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—With respect to collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, effectiveness in achieving the goals and outcomes identified in subsection 427(b)(1)(F) according to such standards as the Secretary shall promulgate.

“(e) COOPERATION AMONG ENTITIES.—A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.”

#### SEC. 1304. PROGRAM REQUIREMENTS.

Section 426 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11386) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

“(a) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

“(b) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

“(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

“(2) to monitor and report to the Secretary the progress of the project;

“(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

“(4) to require certification from all project sponsors that—

“(A) they will maintain the confidentiality of records pertaining to any individual or

family provided family violence prevention or treatment services through the project;

“(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

“(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

“(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.); and

“(E) they will provide data and reports as required by the Secretary pursuant to the Act;

“(5) if a collaborative applicant is a unified funding agency under section 402(g) and receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(11), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

“(6) to monitor and report to the Secretary the provision of matching funds as required by section 430;

“(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education; and

“(8) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.”

(2) by redesignating subsection (d) as subsection (c);

(3) in the first sentence of subsection (c) (as so redesignated by paragraph (2) of this subsection), by striking “recipient” and inserting “recipient or project sponsor”;

(4) by striking subsection (e);

(5) by redesignating subsections (f), (g), and (h), as subsections (d), (e), and (f), respectively;

(6) in the first sentence of subsection (e) (as so redesignated by paragraph (5) of this section), by striking “recipient” each place it appears and inserting “recipient or project sponsor”;

(7) by striking subsection (i); and

(8) by redesignating subsection (j) as subsection (g).

#### SEC. 1305. SELECTION CRITERIA, ALLOCATION AMOUNTS, AND FUNDING.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by repealing section 429 (42 U.S.C. 11389); and

(2) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 432 and 433, respectively; and

(3) by inserting after section 426 the following new sections:

#### “SEC. 427. SELECTION CRITERIA.

“(a) IN GENERAL.—The Secretary shall award funds to recipients through a national

competition between geographic areas based on criteria established by the Secretary.

“(b) REQUIRED CRITERIA.—

“(1) IN GENERAL.—The criteria established under subsection (a) shall include—

“(A) the previous performance of the recipient regarding homelessness, including performance related to funds provided under section 412 (except that recipients applying from geographic areas where no funds have been awarded under this subtitle, or under subtitles C, D, E, or F of title IV of this Act, as in effect prior to the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individual homeless people, and that shall include—

“(i) the length of time individuals and families remain homeless;

“(ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;

“(iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;

“(iv) overall reduction in the number of homeless individuals and families;

“(v) jobs and income growth for homeless individuals and families;

“(vi) success at reducing the number of individuals and families who become homeless;

“(vii) other accomplishments by the recipient related to reducing homelessness; and

“(viii) for collaborative applicants that have exercised the authority under section 422(j) to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in section 427(b)(1)(F);

“(B) the plan of the recipient, which shall describe—

“(i) how the number of individuals and families who become homeless will be reduced in the community;

“(ii) how the length of time that individuals and families remain homeless will be reduced;

“(iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.);

“(iv) the extent to which the recipient will—

“(I) address the needs of all relevant subpopulations;

“(II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 428(d);

“(III) set quantifiable performance measures;

“(IV) set timelines for completion of specific tasks;

“(V) identify specific funding sources for planned activities; and

“(VI) identify an individual or body responsible for overseeing implementation of specific strategies; and

“(v) whether the recipient proposes to exercise authority to use funds under section 422(j), and if so, how the recipient will achieve the goals and outcomes identified in section 427(b)(1)(F);

“(C) the methodology of the recipient used to determine the priority for funding local projects under section 422(c)(1), including the extent to which the priority-setting process—

“(i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid re-

turn to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

“(ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;

“(iii) is based on objective criteria that have been publicly announced by the recipient; and

“(iv) is open to proposals from entities that have not previously received funds under this subtitle;

“(D) the extent to which the amount of assistance to be provided under this subtitle to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 203(a)(7);

“(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

“(F) for collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

“(i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this title; or

“(ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

“(G) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

“(2) ADDITIONAL CRITERIA.—In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

“(A) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the notice of funding availability for the grants, of the pro rata estimated grant amount under this subtitle for the geographic area represented by the collaborative applicant.

“(B) AMOUNT.—

“(i) FORMULA.—Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this subtitle.

“(ii) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the

cities or counties represented by the collaborative applicant.

“(iii) AUTHORITY OF SECRETARY.—Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

“(3) HOMELESSNESS COUNTS.—The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 103(a) of this Act (42 U.S.C. 11302(a)).

“(c) ADJUSTMENTS.—The Secretary may adjust the formula described in subsection (b)(2) as necessary—

“(1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and

“(2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this Act.

#### “SEC. 428. ALLOCATION OF AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

“(a) MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS INDIVIDUALS AND FAMILIES WITH DISABILITIES.—

“(1) IN GENERAL.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

“(2) CALCULATION.—In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 429.

“(3) ADJUSTMENT.—The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 427(b)(2) in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

“(4) SUSPENSION.—The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this subtitle after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this subtitle.

“(5) TERMINATION.—The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this subtitle.

“(b) SET-ASIDE FOR PERMANENT HOUSING FOR HOMELESS FAMILIES WITH CHILDREN.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

“(c) TREATMENT OF AMOUNTS FOR PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act may be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

“(d) INCENTIVES FOR PROVEN STRATEGIES.—

“(1) IN GENERAL.—The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this

subtitle for activities that have been proven to be effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

“(2) **RULE OF CONSTRUCTION.**—For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

“(A) permanent supportive housing for chronically homeless individuals and families;

“(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

“(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

“(3) **BALANCE OF INCENTIVES FOR PROVEN STRATEGIES.**—To the extent practicable, in providing bonuses or incentives for proven strategies, the Secretary shall seek to maintain a balance among strategies targeting homeless individuals, families, and other subpopulations. The Secretary shall not implement bonuses or incentives that specifically discourage collaborative applicants from exercising their flexibility to serve families with children and youth defined as homeless under other Federal statutes.

“(e) **INCENTIVES FOR SUCCESSFUL IMPLEMENTATION OF PROVEN STRATEGIES.**—If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of subpopulations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 423 or paragraphs (4) and (5) of section 415(a) for homeless people generally or for the relevant subpopulation.

**“SEC. 429. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.**

“(a) **IN GENERAL.**—Renewal of expiring contracts for leasing, rental assistance, or operating costs for permanent housing contracts may be funded either—

“(1) under the appropriations account for this title; or

“(2) the section 8 project-based rental assistance account.

“(b) **RENEWALS.**—The sums made available under subsection (a) shall be available for the renewal of contracts in the case of tenant-based assistance, successive 1-year terms, and in the case of project-based assistance, successive terms of up to 15 years at the discretion of the applicant or project sponsor and subject to the availability of annual appropriations, for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

“(1) there is a demonstrated need for the project; and

“(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

“(c) **CONSTRUCTION.**—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

**“SEC. 430. MATCHING FUNDING.**

“(a) **IN GENERAL.**—A collaborative applicant in a geographic area in which funds are awarded under this subtitle shall specify contributions from any source other than a grant awarded under this subtitle, including renewal funding of projects assisted under subtitles C, D, and F of this title as in effect before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area, except that grants for leasing shall not be subject to any match requirement.

“(b) **LIMITATIONS ON IN-KIND MATCH.**—The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

“(c) **COUNTABLE ACTIVITIES.**—The contributions required under subsection (a) may consist of—

“(1) funding for any eligible activity described under section 423; and

“(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423.

**“SEC. 431. APPEAL PROCEDURE.**

“(a) **IN GENERAL.**—With respect to funding under this subtitle, if certification of consistency with the consolidated plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

“(b) **PROCEDURE.**—The Secretary shall establish a procedure to process the appeals described in subsection (a).

“(c) **DETERMINATION.**—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.”.

**SEC. 1306. RESEARCH.**

There is authorized to be appropriated \$8,000,000, for each of fiscal years 2010 and 2011, for research into the efficacy of interventions for homeless families, to be expended by the Secretary of Housing and Urban Development over the 2 years at 3 different sites to provide services for homeless families and evaluate the effectiveness of such services.

**TITLE IV—RURAL HOUSING STABILITY ASSISTANCE PROGRAM**

**SEC. 1401. RURAL HOUSING STABILITY ASSISTANCE.**

Subtitle G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

**“Subtitle G—Rural Housing Stability Assistance Program”; and**

(2) in section 491—

(A) by striking the section heading and inserting **“RURAL HOUSING STABILITY GRANT PROGRAM.”;**

(B) in subsection (a)—

(i) by striking “rural homelessness grant program” and inserting “rural housing stability grant program”;

(ii) by inserting “in lieu of grants under subtitle C” after “eligible organizations”; and

(iii) by striking paragraphs (1), (2), and (3), and inserting the following:

“(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

“(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

“(3) improving the ability of the lowest-income residents of the community to afford stable housing.”;

(C) in subsection (b)(1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (I), (J), and (K), respectively; and

(ii) by striking subparagraph (D) and inserting the following:

“(D) construction of new housing units to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness;

“(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families and individuals and families at risk of homelessness;

“(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, or providing supportive services to such homeless and at-risk individuals and families;

“(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, such rental assistance may include tenant-based or project-based rental assistance;

“(H) payment of operating costs for housing units assisted under this title.”;

(D) in subsection (b)(2), by striking “appropriated” and inserting “transferred”;

(E) in subsection (c)—

(i) in paragraph (1)(A), by striking “appropriated” and inserting “transferred”; and

(ii) in paragraph (3), by striking “appropriated” and inserting “transferred”;

(F) in subsection (d)—

(i) in paragraph (5), by striking “; and” and inserting a semicolon;

(ii) in paragraph (6)—

(I) by striking “an agreement” and all that follows through “families” and inserting the following: “a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization”; and

(II) by striking the period at the end, and inserting a semicolon; and

(iii) by adding at the end the following:

“(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, including the involvement of potential beneficiaries of the project; and

“(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.”;

(G) by striking subsections (f) and (g) and inserting the following:

**“(f) MATCHING FUNDING.—**

**“(1) IN GENERAL.**—An organization eligible to receive a grant under subsection (a) shall

specify matching contributions from any source other than a grant awarded under this subtitle, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided for the project or activity, except that grants for leasing shall not be subject to any match requirement.

“(2) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

“(3) COUNTABLE ACTIVITIES.—The contributions required under paragraph (1) may consist of—

“(A) funding for any eligible activity described under subsection (b); and

“(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

“(g) SELECTION CRITERIA.—The Secretary shall establish criteria for selecting recipients of grants under subsection (a), including—

“(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

“(2) the degree to which the project addresses the most harmful housing situations present in the community;

“(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

“(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

“(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

“(6) the need for such funds, as determined by the formula established under section 427(b)(2); and

“(7) any other relevant criteria as determined by the Secretary.”;

(H) in subsection (h)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking “The” and inserting “Not later than 18 months after funding is first made available pursuant to the amendments made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the”;

(ii) in paragraph (1)(A), by striking “providing housing and other assistance to homeless persons” and inserting “meeting the goals described in subsection (a)”;

(iii) in paragraph (1)(B), by striking “address homelessness in rural areas” and inserting “meet the goals described in subsection (a) in rural areas”; and

(iv) in paragraph (2)—

(I) by striking “The” and inserting “Not later than 24 months after funding is first made available pursuant to the amendment made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the”;

(II) by striking “, not later than 18 months after the date on which the Secretary first makes grants under the program,”; and

(III) by striking “prevent and respond to homelessness” and inserting “meet the goals described in subsection (a)”;

(I) in subsection (k)—

(i) in paragraph (1), by striking “rural homelessness grant program” and inserting “rural housing stability grant program”; and

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “; or” and inserting a semicolon;

(II) in subparagraph (B)(ii), by striking “rural census tract.” and inserting “county where at least 75 percent of the population is rural; or”; and

(III) by adding at the end the following:

“(C) any area or community, respectively, located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 102 of the Housing and Community Development Act of 1974) in such State is the sole beneficiary of the grant amounts awarded under this section.”;

(J) in subsection (1)—

(i) by striking the subsection heading and inserting “PROGRAM FUNDING.—”; and

(ii) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Secretary shall determine the total amount of funding attributable under section 427(b)(2) to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and consolidate such transferred amounts for grants under this section, except that the Secretary shall transfer an amount not less than 5 percent of the amount available under subtitle C for grants under this section. Any amounts so transferred and not used for grants under this section due to an insufficient number of applications shall be transferred to be used for grants under subtitle C.”; and

(K) by adding at the end the following:

“(m) DETERMINATION OF FUNDING SOURCE.—For any fiscal year, in addition to funds awarded under subtitle B, funds under this title to be used in a city or county shall only be awarded under either subtitle C or subtitle D.”.

#### **SEC. 1402. GAO STUDY OF HOMELESSNESS AND HOMELESS ASSISTANCE IN RURAL AREAS.**

(a) STUDY AND REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall conduct a study to examine homelessness and homeless assistance in rural areas and rural communities and submit a report to the Congress on the findings and conclusion of the study. The report shall contain the following matters:

(1) A general description of homelessness, including the range of living situations among homeless individuals and homeless families, in rural areas and rural communities of the United States, including tribal lands and colonias.

(2) An estimate of the incidence and prevalence of homelessness among individuals and families in rural areas and rural communities of the United States.

(3) An estimate of the number of individuals and families from rural areas and rural communities who migrate annually to non-rural areas and non-rural communities for homeless assistance.

(4) A description of barriers that individuals and families in and from rural areas and rural communities encounter when seeking to access homeless assistance programs, and recommendations for removing such barriers.

(5) A comparison of the rate of homelessness among individuals and families in and from rural areas and rural communities compared to the rate of homelessness among in-

dividuals and families in and from non-rural areas and non-rural communities.

(6) A general description of homeless assistance for individuals and families in rural areas and rural communities of the United States.

(7) A description of barriers that homeless assistance providers serving rural areas and rural communities encounter when seeking to access Federal homeless assistance programs, and recommendations for removing such barriers.

(8) An assessment of the type and amount of Federal homeless assistance funds awarded to organizations serving rural areas and rural communities and a determination as to whether such amount is proportional to the distribution of homeless individuals and families in and from rural areas and rural communities compared to homeless individuals and families in non-rural areas and non-rural communities.

(9) An assessment of the current roles of the Department of Housing and Urban Development, the Department of Agriculture, and other Federal departments and agencies in administering homeless assistance programs in rural areas and rural communities and recommendations for distributing Federal responsibilities, including homeless assistance program administration and grantmaking, among the departments and agencies so that service organizations in rural areas and rural communities are most effectively reached and supported.

(b) ACQUISITION OF SUPPORTING INFORMATION.—In carrying out the study under this section, the Comptroller General shall seek to obtain views from the following persons:

(1) The Secretary of Agriculture.

(2) The Secretary of Housing and Urban Development.

(3) The Secretary of Health and Human Services.

(4) The Secretary of Education.

(5) The Secretary of Labor.

(6) The Secretary of Veterans Affairs.

(7) The Executive Director of the United States Interagency Council on Homelessness.

(8) Project sponsors and recipients of homeless assistance grants serving rural areas and rural communities.

(9) Individuals and families in or from rural areas and rural communities who have sought or are seeking Federal homeless assistance services.

(10) National advocacy organizations concerned with homelessness, rural housing, and rural community development.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division

#### **TITLE V—REPEALS AND CONFORMING AMENDMENTS**

##### **SEC. 1501. REPEALS.**

Subtitles D, E, and F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., and 11403 et seq.) are hereby repealed.

##### **SEC. 1502. CONFORMING AMENDMENTS.**

(a) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act (as so redesignated by section 1101(2) of this division), is amended—

(1) by striking “current housing affordability strategy” and inserting “consolidated plan”; and

(2) by inserting before the comma the following: “(referred to in such section as a ‘comprehensive housing affordability strategy’)”.

(b) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), as amended by the preceding provisions of this division, is further amended by adding at the end the following new subsection:



“(e) PERSONS EXPERIENCING HOMELESSNESS.—Any references in this Act to homeless individuals (including homeless persons) or homeless groups (including homeless persons) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.”.

(c) RURAL HOUSING STABILITY ASSISTANCE.—Title IV of the McKinney-Vento Homeless Assistance Act is amended by redesignating subtitle G (42 U.S.C. 11408 et seq.), as amended by the preceding provisions of this division, as subtitle D.

#### SEC. 1503. EFFECTIVE DATE.

Except as specifically provided otherwise in this division, this division and the amendments made by this division shall take effect on, and shall apply beginning on—

(1) the expiration of the 18-month period beginning on the date of the enactment of this division, or

(2) the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504, whichever occurs first.

#### SEC. 1504. REGULATIONS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this division, the Secretary of Housing and Urban Development shall promulgate regulations governing the operation of the programs that are created or modified by this division.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.

#### SEC. 1505. AMENDMENT TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking the item relating to the heading for title IV and all that follows through the item relating to section 492 and inserting the following new items:

##### “TITLE IV—HOUSING ASSISTANCE

##### “Subtitle A—General Provisions

- “Sec. 401. Definitions.
- “Sec. 402. Collaborative applicants.
- “Sec. 403. Housing affordability strategy.
- “Sec. 404. Preventing involuntary family separation
- “Sec. 405. Technical assistance.
- “Sec. 406. Discharge coordination policy.
- “Sec. 407. Protection of personally identifying information by victim service providers.
- “Sec. 408. Authorization of appropriations.
- “Subtitle B—Emergency Solutions Grants Program
- “Sec. 411. Definitions.
- “Sec. 412. Grant assistance.
- “Sec. 413. Amount and allocation of assistance.
- “Sec. 414. Allocation and distribution of assistance.
- “Sec. 415. Eligible activities.
- “Sec. 416. Responsibilities of recipients.
- “Sec. 417. Administrative provisions.
- “Sec. 418. Administrative costs.

##### “Subtitle C—Continuum of Care Program

- “Sec. 421. Purposes.
- “Sec. 422. Continuum of care applications and grants.
- “Sec. 423. Eligible activities.
- “Sec. 424. Incentives for high-performing communities.
- “Sec. 425. Supportive services.
- “Sec. 426. Program requirements.
- “Sec. 427. Selection criteria.
- “Sec. 428. Allocation of amounts and incentives for specific eligible activities.
- “Sec. 429. Renewal funding and terms of assistance for permanent housing.

“Sec. 430. Matching funding.

“Sec. 431. Appeal procedure.

“Sec. 432. Regulations.

“Sec. 433. Reports to Congress.

##### “Subtitle D—Rural Housing Stability Assistance Program

“Sec. 491. Rural housing stability assistance.

“Sec. 492. Use of FHMA inventory for transitional housing for homeless persons and for turnkey housing.”.

Mr. DODD. Mr. President, I move to reconsider that vote and to lay the motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank the Presiding Officer, the floor staff, and others for their work. I thank my colleagues and the staff as well for the tremendous work on this bill over the last several days.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 454, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Weapon Systems Acquisition Reform Act of 2009”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—ACQUISITION ORGANIZATION

Sec. 101. Reports on systems engineering capabilities of the Department of Defense.

Sec. 102. Director of Developmental Test and Evaluation.

Sec. 103. Assessment of technological maturity of critical technologies of major defense acquisition programs by the Director of Defense Research and Engineering.

Sec. 104. Director of Independent Cost Assessment.

Sec. 105. Role of the commanders of the combatant commands in identifying joint military requirements.

#### TITLE II—ACQUISITION POLICY

Sec. 201. Consideration of trade-offs among cost, schedule, and performance in the acquisition of major weapon systems.

Sec. 202. Preliminary design review and critical design review for major defense acquisition programs.

Sec. 203. Ensuring competition throughout the life cycle of major defense acquisition programs.

Sec. 204. Critical cost growth in major defense acquisition programs.

Sec. 205. Organizational conflicts of interest in the acquisition of major weapon systems.

Sec. 206. Awards for Department of Defense personnel for excellence in the acquisition of products and services.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) The term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(2) The term “major defense acquisition program” has the meaning given that term in section 2430 of title 10, United States Code.

#### TITLE I—ACQUISITION ORGANIZATION

##### SEC. 101. REPORTS ON SYSTEMS ENGINEERING CAPABILITIES OF THE DEPARTMENT OF DEFENSE.

(a) REPORTS BY SERVICE ACQUISITION EXECUTIVES.—Not later than 180 days after the date of the enactment of this Act, the service acquisition executive of each military department shall submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report setting forth the following:

(1) A description of the extent to which such military department has in place development planning organizations and processes staffed by adequate numbers of personnel with appropriate training and expertise to ensure that—

(A) key requirements, acquisition, and budget decisions made for each major weapon system prior to Milestones A and B are supported by a rigorous systems analysis and systems engineering process;

(B) the systems engineering strategy for each major weapon system includes a robust program for improving reliability, availability, maintainability, and sustainability as an integral part of design and development; and

(C) systems engineering requirements, including reliability, availability, maintainability, and sustainability requirements, are identified during the Joint Capabilities Integration Development System process and incorporated into contract requirements for each major weapon system.

(2) A description of the actions that such military department has taken, or plans to take, to—

(A) establish needed development planning and systems engineering organizations and processes; and

(B) attract, develop, retain, and reward systems engineers with appropriate levels of hands-on experience and technical expertise to meet the needs of such military department.

(b) REPORT BY UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the system engineering capabilities of the Department of Defense. The report shall include, at a minimum, the following:

(1) An assessment by the Under Secretary of the reports submitted by the service acquisition executives pursuant to subsection (a) and of the adequacy of the actions that each military department has taken, or plans to take, to meet the systems engineering and development planning needs of such military department.